JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1940

Begun on the second day of January and adjourned sine die
on the fourteenth day of March, 1940

PROPERTY OF THE COMMONWEALTH OF KENTUCKY

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JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

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REGULAR SESSION, 1940

TUESDAY, JANUARY 2, 1940.

At a General Assembly of the Commonwealth of Kentucky, begun and held at the Capitol, in the city of Frankfort, on Tuesday, the second day of January in the year of our Lord, one thousand nine hundred and forty, and the one hundred and forty-eighth year of the Commonwealth, that being the day fixed by the Constitution for the meeting thereof, Ellesteen Hager, Assistant Clerk of the House of Representatives during the session of the General Assembly last passed, called the House to order and after prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky, produced and read the following certificate from the Secretary of State, viz.:

COMMONWEALTH OF KENTUCKY

DEPARTMENT OF STATE

FRANKFORT

GEORGE GLENN HATCHER
Secretary of State

I, George Glenn Hatcher, Secretary of State for the Commonwealth of Kentucky, do certify that, based upon records and information furnished me, the following appear to be the legally elected members of the House of Representatives.

This the 2nd day of January, 1940.

GEORGE G. HATCHER
Secretary of State

HOUSE OF REPRESENTATIVES
1940

Dist.	County	Name	Address	Party
1st	Fulton and Hickman	Harry L. Waterfield	Clinton	D.
2nd	Ballard and Carlisle	Davis Moore	Bardwell	D.
3rd	Graves	Wayne W. Freeman	Mayfield	D.
4th	McCracken	Henry Ward	Paducah	D.
5th	Crittenden and Livingston	Ralph C. Hamilton	Marion	D.
6th	Caldwell	T. B. McConnell	Princeton	D.
7th	Calloway	P. G. Curd	Hazel	D.
8th	Lyon and Marshall	Chas. X. Jones	Benton	D.
9th	Trigg	B. W. Porter	Cadiz	D.
10th	Union	Foust Y. Simpson	Morganfield	D.
11th	Henderson	Lyman Roll	Henderson	D.
12th	Webster	R. L. Jackson	Dixon	D.
13th	Hopkins	John H. Cox	Madisonville	D.
14th	Christian	Eugene Gough	R. F. D. Hopkinsville	D.
15th	Todd	Frank C. McElwain	Elkton	D.

Dist.	County	Name	Address	Party
16th	Logan	G. S. Milam	Russellville	D.
17th	Muhlenberg	W. W. Hunt	Central City	R.
18th	McLean	D. E. Edwards	Calhoun	D.
19th	Daviess	W. H. Riley	Owensboro R. F. D.	D.
20th	Daviess (City)	D. T. Bolling	Owensboro	D.
21st	Ohio	Alvis S. Bennett	Hartford	R.
22nd	Breckinridge and Hancock	Chester Huffines	Custer	D.
23rd	Grayson	Porter Wallace	Leitchfield	R.
24th	Butler and Edmonson	Otis White	Morgantown	R.
25th	Warren (City)	Harry W. Ennis	Bowling Green	D.
26th	Warren (County)	W. T. Beard	Bowling Green R. F. D.	D.
27th	Simpson	J. Lee Moore	Franklin	D.
28th	Allen	Charles Carter	Scottsville	R.
29th	Barren	J. W. Vance	Glasgow	D.
30th	Green and Hart	Haynes Carman	Bonnieville	R.
31st	Hardin	C. S. Howard	Elizabethtown	D.
32nd	Meade	W. A. Lamkin, Jr.	Brandenburg	D.
33rd	Bullitt and Spencer	Dr. B. F. Shields	Taylorsville	D.
34th	Larue and Nelson	Frank E. Daugherty	Bardstown	D.
35th	Marion	J. B. Jarboe, Jr.	Lebanon	D.
36th	Adair and Taylor	H. T. Baker	Columbia	R.
37th	Metcalfe and Monroe	W. Paul Lyon	Farkton	R.
38th	Clinton and Cumberland	Bruce Sloan	Albany	R.
39th	Casey and Russell	Otis C. Thomas	Liberty	R.
40th	McCreary and Wayne	Robert E. Lee	Monticello	R.
41st	Pulaski	Homer Neikirk	Somerset	R.
42nd	Lincoln	J. H. Woods	Stanford	D.
43rd	Boyle	John Coulter	Danville	D.
44th	Mercer and Washington	Harvey D. Leonard	Harrodsburg	D.
45th	Anderson	Grover C. Springate	Lawrenceburg	D.
46th	Woodford	W. St. Clair Stuart	Versailles	D.
47th	Jessamine	Kleber A. Price	Nicholasville	D.
48th	Garrard	J. E. Robinson	Lancaster	D.
49th	Franklin	Carlos Fallis	Frankfort	D.
50th	Shelby	Harry F. Walters	Shelbyville	D.
51st	Jefferson	Randolph A. Brown	2072 Sherwood Louisville	D.
52nd	Jefferson	Robert E. Barry	1508 Locust Louisville	D.
53rd	Jefferson	R. E. Stengel	605 Marrett Louisville	D.
54th	Jefferson	Leon J. Shaikun	255 E. Market Louisville	D.

Dist.	County	Name	Address	Party
55th	Jefferson	Norris McPherson	1251 S. 4th Louisville	D.
56th	Jefferson	Adolph Wells	Louisville	R.
57th	Jefferson	Jack Savage	Louisville	R.
58th	Jefferson	C. W. Anderson	Louisville	R.
59th	Oldham and Trimble	E. Hayes McMakin	LaGrange	D.
60th	Carroll and Gallatin	W. S. Brim	Carrollton	D.
61st	Henry and Owen	Otto Smither	Monterey	D.
62nd	Boone and Grant	John S. Jouett	Williamstown	D.
63rd	Kenton	John M. Hunnicut	Covington	D.
64th	Kenton	S. J. Wagner	Covington	D.
65th	Kenton	Thos. J. Fitzpatrick	Covington	D.
66th	Campbell	Stanley Moebus	Ft. Thomas	R.
67th	Campbell	Carl D. Scheben	Newport	D.
68th	Bracken and Pendleton	Willard Q. Daniel	R. F. D. California	D.
69th	Mason	Gus A. Brooks	Maysville	D.
70th	Nicholas and Robertson	Sterling B. Blake	Carlisle	D.
71st	Harrison	Cecil Florence	Cynthiana	D.
72nd	Fleming	Thomas Rigdon	Flemingsburg	D.
73rd	Bourbon	S. S. Dickson	Paris	D.
74th	Scott	Forest C. Easley	Stamping Ground	D.
75th	Fayette (County)	William King	Lexington	D.
76th	Fayette (City)	C. J. Bronston	Lexington	D.
77th	Clark	T. M. Swope	Winchester	D.
78th	Madison	H. O. Porter	Richmond	D.
79th	Breathitt and Lee	J. Everett Bach	Jackson	D.
80th	Estill and Jackson	S. B. Chrisman	Sand Gap	R.
81st	Laurel and Rockcastle	G. M. Ballard	Mt. Vernon	R.
82nd	Whitley	T. H. Hicky	Williamsburg	R.
83rd	Knox	C. L. Hammons	Barbourville	R.
84th	Bell	J. F. Bosworth	Middlesboro	R.
85th	Clay and Owsley	Joe T. Morgan	Conkling	R.
86th	Lewis	Hobert Rayburn	Emerson	R.
87th	Carter	R. R. Ernst	Grayson	R.
88th	Greenup	Henry Stewart	Greenup	R.
89th	Boyd	J. W. Chapman	Ashland	D.
90th	Elliott and Lawrence	Walter R. Vansant	Sandy Hook	D.
91st	Johnson and Martin	John B. Mollette	Van Lear	R.
92nd	Pike	Rell Bevins	Pikeville	D.
93rd	Floyd	Edward Leslie	Prestonsburg	D.
94th	Powell and Wolfe	Erna E. Tyra	Campton	D.
95th	Menifee and Montgomery	J. Claude Stacey	Mt. Sterling	D.
96th	Bath and Rowan	Van Y. Green	Salt Lick	D.

Dist.	County	Name	Address	Party
97th	Letcher and Perry	E. T. Sparks	Hazard	R.
98th	Harlan and Leslie	Ray O. Shehan	Harlan	R.
99th	Knott and Magoffin	Carl D. Perkins	Hindman	D.
100th	Morgan	C. C. May	Woodsbend	D.

The Assistant Clerk aforesaid, called the roll and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Cecil Florence	Joe T. Morgan
J. Everett Bach	Wayne Freeman	C. Homer Neikirk
H. T. Baker	Eugene Gough	Carl D. Perkins
G. M. Ballard	Van Y. Greene	B. W. Porter
Robert E. Barry	Ralph C. Hamilton	H. O. Porter
Wm. T. Beard	C. L. Hammons	Kleber F. Price
Alvis S. Bennett	T. H. Hickey	Hobart Rayburn
Rell Bevins	Clyde S. Howard	Thomas Rigdon
Sterling B. Blake	Chester Huffines	W. H. Riley
Douglas T. Bolling	John M. Hunnicutt	Joe E. Robinson
J. F. Bosworth	W. H. Hunt	Lyman Roll
W. S. Brim	R. L. Jackson	Jack Savage
C. J. Bronston	J. B. Jarboe, Jr.	Carl Scheben
Gus A. Brooks	Chas. X. Jones	Leon J. Shaikun
Randolph A. Brown	John S. Juett	Ray O. Shehan
Haynes Carman	William K. King	Dr. B. F. Shields
Charles M. Carter	W. A. Lamkin, Jr.	Faust Y. Simpson
James W. Chapman	Robert E. Lee	Bruce Sloan
S. B. Chrisman	Harvey D. Leonard	Otto Smither
John Coulter	Edward Leslie	E. T. Sparks
John H. Cox	W. Paul Lyon	G. C. Springate
Pink G. Curd	C. C. May	J. Claude Stacy
W. Q. Daniel	T. B. McConnell	Ray J. Stengel
F. E. Daugherty	Frank C. McElwain	Henry Stewart
Stanley S. Dickson	E. Hayes McMakin	W. St. Clair Stuart
Forest C. Easley	Norris McPherson	T. M. Swope
D. E. Edwards	G. Sam Milam	Otis C. Thomas
Harry W. Ennis	Stanley C. Moebus	Erna E. Tyra
R. R. Ernst	John B. Mollette	J. Wood Vance
Carlos Fallis	Davis Moore	Walter R. Vansant
T. P. Fitzpatrick	J. Lee Moore	S. J. Wagner

Porter Wallace	Henry Ward	Otis White
Harry F. Walters	H. L. Waterfield	James H. Woods

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The oath of office as required by the Constitution was then administered to each and all of said members by The Honorable Alex Ratliff, Chief Justice of the Court of Appeals.

The said Assistant Clerk then announced that the election of Speaker of the House of Representatives was in order.

Mr. Joe E. Robinson named Dr. B. F. Shields of the county of Spencer, as a suitable person to fill said office.

Mr. Moebus named The Honorable Ray O. Shehan of the county of Harlan as a suitable person to fill said office.

There being no further nominations for the office of Speaker of the House of Representatives, the vote being taken thereon, resulted as follows, viz.:

Those who voted for Dr. B. F. Shields were—

J. Everett Bach	F. E. Daugherty	R. L. Jackson
Robert E. Barry	Stanley S. Dickson	J. B. Jarboe, Jr.
Wm. T. Beard	Forest C. Easley	Chas. X. Jones
Rell Bevins	D. E. Edwards	John S. Juett
Sterling B. Blake	Harry W. Ennis	William K. King
Douglas T. Bolling	Carlos Fallis	W. A. Lamkin, Jr.
W. S. Brim	T. P. Fitzpatrick	Harvey D. Leonard
C. J. Bronston	Cecil Florence	Edward Leslie
Gus A. Brooks	Wayne Freeman	C. C. May
Randolph A. Brown	Eugene Gough	T. B. McConnell
James W. Chapman	Van Y. Greene	Frank C. McElwain
John Coulter	Ralph C. Hamilton	E. Hayes McMakin
John H. Cox	Clyde S. Howard	Norris McPherson
Pink G. Curd	Chester Huffines	G. Sam Milam
W. Q. Daniel	John M. Hunnicutt	Davis Moore

J. Lee Moore	Carl Scheben	T. M. Swope
Carl D. Perkins	Leon J. Shaikun	Erna E. Tyra
B. W. Porter	Ray O. Shehan	J. Wood Vance
H. O. Porter	Faust Y. Simpson	Walter R. Vansant
Kleber F. Price	Otto Smither	S. J. Wagner
Thomas Rigdon	G. C. Springate	Harry F. Walters
W. H. Riley	J. Claude Stacy	Henry Ward
Joe E. Robinson	Ray J. Stengel	H. L. Waterfield
Lyman Roll	W. St. Clair Stuart	James H. Woods

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Those who voted for the Honorable Ray O. Shehan were—

C. W. Anderson, Jr.	C. L. Hammons	Hobart Rayburn
H. T. Baker	T. H. Hickey	Jack Savage
G. M. Ballard	W. H. Hunt	Dr. B. F. Shields
Alvis S. Bennett	Robert E. Lee	Bruce Sloan
J. F. Bosworth	W. Paul Lyon	E. T. Sparks
Haynes Carman	Stanley C. Moebus	Henry Stewart
Charles M. Carter	John B. Mollette	Otis C. Thomas
S. B. Chrisman	Joe T. Morgan	Porter Wallace
R. R. Ernst	C. Homer Neikirk	Otis White

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Dr. B. F. Shields, having received a majority of the votes cast, a majority of all the members elected being present and voting, was declared by the Assistant Clerk to be duly elected Speaker of the House of Representatives.

The Assistant Clerk aforesaid appointed Messrs. Ray O. Shehan, Frank E. Daugherty, T. B. McConnell, Faust Simpson, Norris McPherson and Carl D. Perkins as a committee to inform the Speaker elect of the action of the House and to escort him to the Chair.

After a time, the committee aforesaid accompanied Dr. B. F. Shields onto the floor of the House, who having taken his place at the Speaker's desk, expressed his appreciation

for the honor conferred upon him and announced that he was now ready to take the oath of office, which said oath was administered by The Honorable Alex Ratliff, Chief Justice of the Court of Appeals.

The Speaker then announced that the next order of business was the election of a Chief Clerk of the House and other minor officers to be filled by the House, in accordance with the Constitution.

Thereupon Mr. Joe E. Robinson named The Honorable William A. Perry of the county of Jefferson as a suitable person for the office of the Chief Clerk of the House:

Brooks L. Hargrove of the county of Woodford, for Assistant Clerk;

Mrs. Lucian Haynes of the county of McLean, for Enrolling Clerk;

Mr. Elzie Showers of the county of Kenton, for Doorkeeper;

Mr. Dauphin Hunter of the county of Ohio, for Sergeant-at-Arms;

Mr. Dudley Penrod of the county of Fayette, for Janitor;

Messrs. R. C. Bailey of the county of Knott and Marion Vance of the county of Barren, for Cloakroom Keepers;

William Pike Conway of the county of Nelson, William Bach of the county of Breathitt, Gerald Willis of the county of Boyd and Tommy Woods of the county of Garrard, for Pages.

There being no further nominations for said offices, Mr. Ward moved that the Speaker of the House be authorized and directed to cast one vote on behalf of the entire House, for all those parties above named to fill the offices set opposite their names.

Said motion was agreed to.

The Speaker, having cast one vote for the entire House as above directed, declared said parties duly elected to said offices.

Thereupon all of the said officers above named appeared before the bar of the House and took the oath of office as required by the Constitution and laws of Kentucky, which was administered by The Honorable Alex Ratliff, Chief Justice of the Court of Appeals.

Mr. Joe E. Robinson offered the following resolution, viz.:

Be It Resolved by the House of Representatives of the Commonwealth of Kentucky:

That the Rules of the 1938 Regular Session of the House of Representatives, as adopted by the aforesaid body, and practiced by that body be used and practiced by this 1940 Session of this body, temporarily and until such time as permanent rules are adopted.

Said resolution was adopted.

Mr. Hunnicutt offered the following resolution, viz.:

Be It Resolved by the House of Representatives of the Commonwealth of Kentucky:

That the Speaker of this House be authorized and directed to appoint a Special Temporary Committee of six members for the sole purpose of drafting and submitting rules for the approval and adoption by the House.

Said resolution was adopted.

Thereupon the Speaker announced the following as members constituting said Committee: Messrs. Joe E. Robinson, John Hunnicutt, Henry Ward, J. Lee Moore, Sam Milam and Ray O. Shehan.

Mr. Milam offered the following resolution, viz.:

Be It Resolved by the House of Representatives of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches to attend the meetings of this House and open the sessions thereof with prayer.

Said resolution was adopted.

Mr. Henry Ward offered the following resolution, viz.:

Be It Resolved by the House of Representatives of the Commonwealth of Kentucky:

That the Speaker be, and he is hereby empowered to employ such assistants in and about the House Chamber during this session of the General Assembly, as to him may appear necessary and deem advisable under the provisions of Chapter 69, Acts of 1926.

Said resolution was adopted.

Mr. J. Lee Moore offered the following resolution, viz.:

Be It Resolved by the House of Representatives of the Commonwealth of Kentucky:

That a Committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business and that said Committee shall in conjunction with a like Committee to be appointed from the Senate, wait upon the Governor and inform him that this General Assembly is now organized and ready to receive any communication he may desire to make.

Said resolution was adopted.

Thereupon the Speaker announced the following as members constituting said Committee: Messrs. Joe Bosworth, James H. Woods, Harry F. Walters.

Under the provisions of the resolution offered by Mr. Ward authorizing the Speaker to appoint such assistants as he deemed necessary, the Speaker announced the following appointments:

Ellesteen Hager, Jessamine county ..... Reading Clerk
Jane A. Waddle, Lincoln county ..... Journal Clerk
Mrs. Lucille B. Coley, Caldwell county ..... Asst. Enrolling Clerk
Mrs. Mary Purdy, Bourbon county ..... Bill Book Clerk
Mrs. Charles Howes, Franklin county ..... Bill Clerk
Mrs. Mary Bennett, Simpson county ... Stenographer to Speaker
Thos. H. Springate, Anderson county ..... Asst. Doorkeeper
Sanford Razor, Franklin county ..... Asst. Doorkeeper
John Wilburn, Crittenden county ..... Asst. Doorkeeper
E. L. Hagan, Hardin county ..... Asst. Doorkeeper
W. A. Patterson, Calloway county ..... Asst. Doorkeeper
Neil Robertson, Harrison county ..... Asst. Doorkeeper
Ammerson Robertson, Mercer county ..... Asst. Janitor

Garland Cunningham, Trigg county .....Asst. Sergeant-at-Arms
Victor Buckley, Kenton county .....Asst. Sergeant-at-Arms
Elva Hust, Union county .....Page
Mrs. Carl Scheben, Kenton county .....Page
Henry J. Dunklin, Jr., Warren county .....Page
William May, Morgan county .....Page
Morris Glenn Cobb, Graves county .....Page

The Speaker announced the personnel of the Committee on Appropriations No. 1, as follows:

John Hunnicutt
Hobart Rayburn
Henry Ward
J. Lee Moore, Chairman
Frank E. Daugherty
Dr. B. F. Shields
Joe E. Robinson
Otis White

Mr. Milam offered the following resolution, viz.:

H. Res. 1. RESOLUTION appropriating the sum of Seven Hundred and Fifty Dollars ($750.00) for a contingent fund for the clerk of the Senate, and appropriating the sum of Seven Hundred and Fifty Dollars ($750.00) for a contingent fund for the Clerk of the House.

Said resolution is as follows, viz.:

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That for the purpose of paying such expenses as the Chief Clerk of the Senate of Kentucky is directed to incur by the Senate of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty dollars ($750.00), and for the purpose of paying the expenses incurred by the

Chief Clerk of the House of Representatives, under the direction of the House of Representatives of the Commonwealth of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty dollars ($750.00). Said respective funds shall be paid out on warrant of the Auditor issued on requisition of the Chief Clerk of the Senate and of the House of Representatives.

Mr. Hunnicutt offered a resolution entitled:

H. Res. 2. Joint resolution providing for the purchase of "The Legislative Digest."

Said resolution is as follows, viz.:

WHEREAS, it is a matter of importance and convenience that each Representative and each Senator be advised as to the various and detailed steps of legislation; and

WHEREAS, the General Assembly for each of the past sessions since 1912 has approved and adopted as its official publication "The Legislative Digest", published under the management of competent and experienced persons, the purpose of which is to fully advise from day to day the officials and public of the Commonwealth as to matters affecting them in an intelligent and prompt manner; now, therefore

Be it resolved by the House of Representatives of the Commonwealth of Kentucky and the Senate of the Commonwealth of Kentucky concurring, that:

§ 1. The State Journal Company hereby is authorized, requested and directed to furnish two hundred (200) copies of "The Legislative Digest" daily for delivery and distribution as hereinafter provided. The State Journal Company will be paid the sum of Two Thousand ($2,000.00) dollars for furnishing two hundred copies of "The Legislative Digest" daily as provided in this Resolution, which amount hereby is

fixed, determined, approved and allowed as a contingent expense of the 1940 regular session of the General Assembly of Kentucky. Said amount will be paid on or before March....., 1940, out of the appropriation heretofore made for the cost, salaries and expenses of the General Assembly. The State Journal Company will present to the Speaker of the House and to the President of the Senate its bill for Two Thousand ($2,000.00) dollars and the Speaker of the House and the President of the Senate hereby are authorized and directed to approve said bill for payment out of the appropriation hereinabove referred to; and when said bill is so approved, it shall be approved for payment by the Department of Finance; and, the Auditor of Public Accounts shall issue his warrant upon the State Treasurer in payment thereof, and the State Treasurer shall issue and deliver a check upon the State Treasury for the payment thereof.

§ 2. The State Journal Company hereby is directed to furnish and deliver daily to the Clerk of the House one hundred and ten (110) copies of "The Legislative Digest" for distribution to the Members of the House and to such officers of the House as the Speaker may direct; to furnish and deliver daily to the Clerk of the Senate forty-five (45) copies of "The Legislative Digest" for distribution to the members of the Senate and to such officers of the Senate as the President of the Senate may direct; and to furnish and deliver daily the remaining forty-five (45) copies of "The Legislative Digest" to the Governor of the Commonwealth of Kentucky and to such departments, officers and employees of the Commonwealth as the Governor of the Commonwealth, the President of the Senate and the Speaker of the House may direct. The Speaker of the House, the President of the Senate and the Governor of the Commonwealth hereby are requested to furnish to the State Journal Company a list of the departments, officers and employees to whom said copies are to be furnished as hereinabove provided.

The word "daily" as hereinabove used shall be construed to mean each day that the House or Senate is in session.

§ 3. "The Legislative Digest" hereby is adopted and approved as the official publication of the General Assembly of Kentucky.

§ 4. The Clerk of the House of Representatives, on the passage of this Resolution and the concurrence therein by the Senate, hereby is directed to furnish and deliver to the Department of Finance and to the Auditor of Public Accounts an attested or certified copy of this Resolution; and the amount hereinabove provided to be paid shall be noted and entered on the books of the Department of Finance and the books of the Auditor of Public Accounts as a charge against the appropriation hereinabove referred to.

Ordered that said resolutions be printed and referred

To Committee on Appropriations No. 1.

Mr. Shehan notified the House of the death of The Honorable Adolph Wells of Jefferson county, 56th district and requested the Speaker to appoint a Committee to draft suitable resolutions expressing the sympathy of the House to the family of Mr. Wells.

Thereupon the Speaker appointed the following as members constituting said Committee: Messrs. Randolph A. Brown, Robert E. Barry, Raymond, J. Stengel, Leon J. Shaikun, Norris McPherson, John J. Savage and Charles W. Anderson, Jr.

The presence of The Honorable John Kirtley of Owensboro, Kentucky, former Speaker of the House for the two sessions last passed, being noted, he was escorted to the floor of the House by Mr. John Hunnicutt where he took his place at the Clerk's desk and addressed the House briefly.

Mr. Ward moved that Mr. and Mrs. John Kirtley, and Mrs. Tyler Munford be extended the privilege of the floor for the duration of this session.

Said motion was agreed to.

Mr. Woods of the Committee heretofore appointed by the Speaker to notify the Senate that the House was now organized and ready to proceed to the transaction of business and to wait upon the Governor, in conjunction with a like Committee on the part of the Senate, announced that they had discharged the duties imposed upon them and that they had been informed by the Governor that he would address a Joint Session of the House of Representatives and the Senate of Kentucky on today at one-thirty o'clock P.M.

The hour of one-thirty o'clock P.M. having arrived, the Senate of Kentucky appeared and in order entered upon the floor of the House of Representatives and The Honorable Rodes K. Myers, Lieutenant Governor and President of the Senate, took the Chair and presided and Dr. B. F. Shields, Speaker of the House of Representatives, having taken his seat on the right of the President of the Senate, the two Houses were convened in Joint Session which was composed of a majority of all the members elected to each House.

There being no objection, the call of the roll of the Senate and House of Representatives in Joint Session was dispensed with.

After a time the Committees heretofore appointed on the part of the Senate and the House of Representatives, to wait upon the Governor, appeared upon the floor of the House with His Excellency, Keen Johnson, Governor of the Commonwealth of Kentucky, who, having taken his place at the Clerk's desk, addressed the General Assembly in Joint Session, as follows, viz.:

Governor Myers, Gentlemen of the Kentucky General Assembly:

It is a pleasure to greet you today at this convocation of the biennial session of the Kentucky General Assembly and extend to you a cordial welcome. It is a distinct honor to be privileged to serve as a member of the Kentucky Legislature. It is an opportunity for fine public service which carries with it great responsibilities.

The Constitution directs the Governor to advise the Legislature of the state's needs and problems. It is your duty to legislate and I have no disposition to infringe upon your duties. It is the duty of the Governor to offer for your consideration information and suggestions as to what seems to be necessary or preferable. The Governor and your other elective state officials who comprise the Governor's official family, must stay here throughout the entire four years of our terms and administer the laws you have enacted, after you yourselves shall have completed your legislative duties and returned to your homes. So it is important that you leave us in a position where we may do acceptable administrative jobs.

I am sure that every member of the Legislature joins with the Governor and your other elected state officials in a common desire to render conscientious and valuable service to the people of Kentucky. Your problem is made difficult by the multiplicity of subjects with which legislation deals, and by the fact that your session is limited by the Constitution to a maximum of 60 days. After that time, and after you shall have returned to your homes, further legislative action can be obtained only by the great expense of a special session, or by waiting for two years until time for another regular session.

The pressure due to limited time, has often resulted, in the past, in hastily drawn or hastily considered legislation. Bills intended to accomplish definite purposes sometimes are

found later, when reviewed in the courts, to have had far different effects because of their interplay with older statutes.

There are already numerous laws on the statute books, and I think it is correct to state that Kentucky does not need many more laws. It is more important that all new laws enacted should be carefully drawn and carefully considered.

The staff of the Kentucky Statutes Revision Commission, the staff of the Attorney General, and attorneys attached to several state departments have generously offered to give all the assistance possible to members of the Legislature, consistent with their regular duties, to aid in drafting bills so as to make them conform to the Constitution and avoid unintended effects on existing statutes.

You who compose the legislature occupy a position comparable to the board of directors of a corporation. The position of your Governor may be likened unto that of a president of a corporation. We are to work together for 60 days, concentrating all our efforts and thoughts upon the legislative needs of the Commonwealth.

Because of the great importance of your work, I shall endeavor insofar as possible to restrict all other demands upon the Governor's time during the session, in order that I may be available to any of you when you wish to consult with me.

You of the General Assembly come from various sections of the State. Some of you represent rural regions and some represent urban communities. But I urge each of you to remember that you can not advance the welfare of Kentucky by legislation which is helpful to your own district if at the same time it is hurtful to some other section of the state. I implore you to avoid legislation that would array one section or group within the state against another section or group.

We cannot treat the welfare of Kentucky as the Indian did his blanket in the story: His blanket was too short to keep him warm around the neck, so he cut a piece off the bottom

and sewed it to the top. We can obtain only a false comfort for ourselves if it means shoving somebody else out into the cold.

The necessity and the wisdom of dealing with national problems nationally has been demonstrated under the leadership of President Roosevelt. We can and should apply this principle within our own field by dealing with state problems on a state-wide basis.

The condition of Kentucky's government is much improved as you assemble here, contrasted with conditions that existed four years ago. The most marked progress that has taken place is in the reformation of the state's finances. Kentucky has lived within her income, and until recently made amazing reductions in the state debt. It has made this record in spite of the fact that it assumed, within the same period of time, the burdens of greatly expanded social service to its people. Among such costs may be mentioned the institution of old age pensions under the Social Security Act, and the building of new prisons and hospitals to relieve long neglect.

A substantial part of the costs of these expanded services to the people were met by a reduction of approximately $1,000,000 a year in interest charges on the state debt, and by the introduction of greater efficiency and economies resulting from the Reorganization Act and budgetary control. Grants of Federal aid have made a major and invaluable contribution to this progress.

The great reduction in the state debt was made possible principally by the high level of distillery operations immediately following the repeal of prohibition, when the state's five-cents-a-gallon tax on whisky production poured a flood tide of revenues into the state treasury. This flow of revenue was augmented by the receipts from specialty taxes on soft drinks, ice cream, candy and certain other items, which have since been repealed.

The distillery operations have now leveled off to an activity sufficient to meet replacement needs, and receipts from the whisky production tax have consequently fallen off to a much smaller figure. The soft drinks-ice cream-and-candy tax is no longer on the statutes. Consequently, I must make it plain at the outset that there is no large volume of revenue available for spending purposes. There is no surplus of revenues being applied to debt reduction which the Legislature might wish to divert to other purposes.

I want to emphasize also that the reduction of $1,000,000 a year in interest charges on the state debt made a very substantial contribution to the newly-assumed costs of old age pensions, to the costs of ending long neglect of our penal and charitable institutions, and to the routine costs of government.

This saving of $1,000,000 a year was made possible in two ways: by a reduction in the amount of debt on which interest is paid, and by a reduction in the rate of interest which the state pays on the debt still outstanding.

This interest formerly was five per cent; it has been reduced to as little as one and one-half per cent on part of the remaining debt. This reduction in interest rate was made possible only by the fact that the state's budget was balanced and the debt being reduced. The financial markets will not absorb state warrants at such a low interest rate if an unbalanced condition in the state's budget raises any question regarding the definite prospect of payment of the state's obligations. Even when the state paid five per cent interest, the financial markets at one time regarded the state's paper as being worth only about 70 cents on the dollar.

It is therefore urgently necessary that the state should continue to live within its income and continue to reduce the state debt, and it should do this without increasing the general burden of taxes. No more important duty faces you than to enact legislation which will assure that sound procedure.

Unless this is done, a rising interest rate will require additional money which could otherwise be used for more constructive purposes.

I recommend to you that you enact legislation which will increase the maximum payments which may be made for old age assistance from $15 to $30 a month. Under the present law, $15 is the largest sum an old age recipient may receive. That, of course, does not mean, as I have repeatedly said, that all persons who receive old age assistance will get $30 a month. Under both the Federal and state laws, the amount of cash grants must be based upon the needs of the person to whom paid.

I ask that you amend the old age assistance act so as to eliminate that provision which requires old age assistance recipients to give the state a lien, or mortgage, on such property as they may own. Existing liens should be canceled. The General Assembly should make certain, when repealing this lien requirement, that there are adequate safeguards in the act to make certain that the old age assistance money shall go to those who actually need it.

I recommend that you submit to the people for a vote a constitutional amendment which, if adopted, would permit creating an educational equalization fund. Our state Constitution now requires that state money for public education be distributed among the counties on the basis of the number of children of school age residing within them. These state funds are then supplemented by school funds raised by local taxation. Under this plan, the more prosperous counties provide adequate school opportunities without unduly burdensome taxes, but there are a number of poor counties which are still unable to provide adequate educational opportunities after taxing themselves to the limit. If the proposed constitutional change be submitted and approved, these inequalities of educational opportunity may be eliminated by increased state support to counties in greatest need.

I recommended that there be enacted legislation to create a Division of Markets in the Department of Agriculture. This agency should stress promotional market efforts and make available to farmers practical assistance in setting up farm cooperatives. You will note that I suggest in the budget bill that there be an appropriation of $15,000 each year for this activity.

I recommend that an appropriation of $7,500 a year be made to finance research in an effort to find new uses for tobacco. This appropriation you will find in the budget bill, which would make this money available for the University of Kentucky College of Agriculture, where I feel certain it will be most wisely expended.

I suggest legislation which would direct the creation of a non-salaried commission to study the problems of farm tenancy relative to farm ownership, to assist farm tenants and farm laborers in developing a program for the purchasing and financing of farms.

Kentucky is rich in natural resources, is located near the center of population of the United States, and has an abundance of native labor that is available for employment. Employers and employees should be encouraged to realize that their interests are best served by a realization that the welfare of each is necessary for the success and the promotion of the best interests of the other. To aid in the development of these policies and in the accomplishment of these objectives some new legislation is both desirable and needed. Amendments to certain existing laws are also important to promote and protect the policies and objectives to which I have referred.

The Workmen's Compensation Law was enacted twenty-five years ago. At that time workmen's compensation laws were in their experimental stages. Since that time wages have increased and the cost of living has increased. I ask that this General Assembly give careful study to the present Work-

men's Compensation Law and similar laws of other states; that there be enacted such amendments to the Kentucky Workmen's Compensation Law as will modernize it and remove any unfair and objectionable features; to improve the administration thereof, and to correct any inequities that now exist. I favor and ask that this General Assembly increase the benefits for injured workers in total disability cases and fatalities, in line with the general statement just expressed relative to increased wages and increased cost of living.

Employees are entitled to have the places in which they are required to work in a reasonably safe and healthful condition, and I recommend that favorable consideration be given to legislation that will require reasonably safe and healthful places of employment to be maintained by the employers, and to provide for adequate State safety inspection.

The Workmen's Compensation Law is intended to require that employers shall assume responsibility for compensating employees and their dependents for accidental injuries resulting in the course of employment. Under the Constitution of this State, the Workmen's Compensation Law cannot be made compulsory and in some instances employers have neither elected to operate under its provisions nor to provide insurance or adequate indemnity for the discharge of the employer's liability for accidental injuries and death arising out of and in the course of the employment. I recommend and ask that this General Assembly pass legislation that will require employers who do not elect to operate under the Workmen's Compensation Act to carry liability insurance to indemnify their employees for injuries sustained in employment, and in cases of fatalities to protect and indemnify their families or dependents for any liability of the employers.

I am strongly in favor of peaceful and amicable conciliation, mediation and arbitration of disputes between employers and employees. The employees' right to organize

and bargain collectively are rights thoroughly established as a part of the American system and with which I am in thorough accord. I ask your favorable consideration of and the passage of laws to empower the Department of Industrial Relations to investigate, conciliate, mediate and to arbitrate disputes between employers and employees, and in that connection to vest exclusive jurisdiction of disputes between employers and employees in that Department with the right of appeal by either party to the courts from the action or decision of that Department. In so vesting that jurisdiction in the Department of Industrial Relations, injunctions should be prohibited and litigants required to submit to the orderly procedure, first of conciliation and mediation, and second, of appeal to the courts from the decision of the Department of Industrial Relations.

I ask your consideration of legislation to provide for the finding and establishment of prevailing wages on public works projects, with reasonable provisions for the enforcement thereof. It is my judgment that these provisions should be enacted in connection with other legislation relating to the Department of Industrial Relations, and jurisdiction and power of enforcing should be vested in that Department subject to an appeal to the courts from the findings and acts of that Department.

With the large number of persons now unemployed, there is a shortage of skilled labor, and I ask that you give favorable consideration to the enactment of a law to provide for a system of apprenticeship training.

I ask that you give favorable consideration to enactment of a law of general application to provide for one day's rest in seven for all employees, and extra pay at the rate of time and a half of the regular rate to employees who are required to work on Sundays and legal holidays when such employees are also required to work six other days in the same week.

The legislation which you pass on the subjects to which I have just referred should be carefully considered and a full

opportunity given to representatives of organized labor and to representatives of the employers to be heard, and when finally enacted, should be fair and reasonable both to the employees and the employers, and to the public generally.

The expansion of industries in Kentucky and the opportunity for new industries to be established here will largely depend upon the establishment and maintenance of a friendly and cooperative spirit between employers and employees and the absence of unfair practices on the part of either employers or employees. To insure and promote the accomplishment of these objectives will require your careful, thoughtful and studious consideration of the legislation which I have requested that you consider and pass.

I recommend enactment of legislation that will exempt from the gasoline tax that gasoline used in farm tractors and stationary engines. It will be necessary to exercise extreme caution in this legislation in order to prevent opening a loophole that may result in evasion of the gasoline tax to such an extent as to reduce hurtfully the road revenues.

I shall insist that you turn a deaf ear to all proposals which would divert the road fund for any other purpose.

I favor continuing the $2,000,000-a-year appropriation for the Rural Highway Department. This helpful program, and the work of improvement and maintenance of main highways, would both be jeopardized by any diversion of the revenues of the road fund. Any such diversion would make it impossible to match Federal aid highway funds and result in the state losing up to approximately $3,000,000 a year.

An important part of the legislative problems you face are financial in nature. If there was ample money available, our legislative tasks would be simple. Let me urge you to remember that it is not your money or mine which you will, by legislation, appropriate for various state functions. It is money collected from taxpayers, and by them earned by toil and sweat. There is no magic with which money can be plucked from the air with which to pay appropriations, re-

gardless of how meritorious they may be. I covet your co-operation to the end that we shall be certain that there will be money made available with which to pay in actual cash every cent of the appropriations you make.

The state's actual general fund tax receipts in the fiscal year ended June 30, 1937, were $28,995,291; in the fiscal year ended June 30, 1938, they were $26,725,910, and in the last fiscal year ended June 30, 1939, they were $24,507,922. These figures reflect particularly the falling off in receipts from the whisky production tax, and in general they illustrate also the variations in the state's income resulting from varying economic conditions. Two years ago, when the last budget bill was drafted, the Department of Revenue estimated that the tax laws would bring in, for the fiscal year ending June 30, 1939, income of more than $28,000,000.

The decline from this estimate of $28,000,000 to an actual income of $24,507,922 illustrates the limitations necessary to be imposed on appropriations.

The stubborn and inescapable fact is that revenues have shrunk, creating a situation which makes it necessary that we be as thrifty as possible. We must avoid an increase in general taxes by making readjustments in existing tax laws, strengthening these tax measures so as to assure provision of the money with which to meet the state's minimum needs. No new general taxes need be enacted.

From tax laws now in operation you can estimate with reasonable certainty that there will come into the state treasury in the next fiscal year, 1940-41, $24,352,650 and about the same for the following year. In addition to tax receipts, the general fund may reasonably be expected to receive about $1,147,350 a year from miscellaneous fees, office sales and rentals. So in round overall figures, under present laws, total state general fund income should be about $25,500,000 for each of the next two years. This will be a decline of more than $4,220,000 in general fund revenues as compared with the fiscal year of 1936-37. That decline has resulted in part from

the repeal of the tax on chewing gum, ice cream and soft drinks, which produced $1,800,000 a year, and a decline of about $3,000,000 a year in receipts from the five-cent production tax on whisky. The chain store tax has been held invalid as it was drawn, resulting in a loss of about $200,000 a year. There have been fluctuations in income from other sources of revenue.

In view of this decline, and in order that the essential services of government may be financed, it is your duty and mine to be cautious as by legislation we obligate the state to spend money. This situation makes it absolutely necessary that we be prudent and saving with the people's money. It makes it necessary to retain present tax measures. It places you and me in a position where we must face the facts and realize that we can not repeal existing tax laws if we are to continue to make modest provision for financing present state agencies and activities. It becomes my duty to impress upon you that the first important consideration in dealing with the state's finances is to retain those laws which now produce the revenue with which to run your state government.

On December 12, 1939, when I assumed the duties of the office of Governor for the ensuing four year term there was an actual cash balance of $2,586,684.70 belonging to the General Fund, according to the official records of the Department of Finance. This amount included a cash balance of $68,-862.49 held in reserve as a cold check fund, leaving a net amount of $2,517,822.21 on hand. Of this net sum $61,789.17 was temporarily held in a closed bank, but the state will get the full amount and for this reason it may be properly considered as cash available for the current year.

Against this cash balance, the Finance Department records showed there were immediate legal demands on cash as follows: encumbrance obligations approved against allotments, $3,006,013.92. (Of this sum of $3,006,013.92 that has been encumbered, $53,000 is being held for accrued interest

on warrants, $438,000 is for building contracts already awarded, $1,385,000 is for school per capita for the current month, $220,000 is for free textbooks. The remaining $910,000 represents incumbrances or bills to be paid for salaries and current operating expenses and bills); accrued interest in prior year warrants, $3,249.55; current warrants authorized but unpaid, $355,798.41; three per cent interest-bearing warrants called for payment but not presented, $267,300.00; five per cent interest-bearing warrants called for payment but not presented, $23,592.46. These immediate demands on cash amounted to $3,655,954.39, an excess of $1,138,132.18 over the net cash balance available.

In connection with this cash position on December 12, 1939, it is essential to consider the outlook for the entire year. Estimated receipts into the General Fund for the present fiscal year amount to $25,312,238.35, while total appropriations amount to $26,296,387.23. From this it is evident that $984,148.88 must be withheld from appropriations to avoid an increase in the General Fund Deficit. But included within these figures is a sum of $500,000 set up as a revolving fund to aid in refinancing of bonded indebtedness of counties. Since the fund is not expended, does not deplete itself in performing its function, the prospective actual deficit would only be $484,148.88, if steps were not taken to avert it. It will be necessary to practice rigid economy the last six months of this fiscal year to come within the budget.

This apparent discrepancy in balancing the budget for the present year has arisen since the budget adoption at the opening of the last regular session of the Legislature and may well serve as a warning against similar conditions in the ensuing biennium. Receipts were estimated at $28,381,000.00 and total appropriations in the budget bill amounted to $24,715,131.10, leaving an estimated balance available for debt reduction of $3,665,868.90. However, since the adoption of that budget the estimate of receipts has been revised by the Commissioner of Revenue and is now only $25,312,238.35, or

$3,068,761.65 less than originally estimated. In addition to this decrease in revenue estimates, appropriations were increased from $24,715,131.10 as included in the budget bill to $26,296,387.23, or an increase of $1,581,256.13. These appropriation increases were the result of special Acts including appropriations or additions, separate from the regular budget bill.

Principal among these additional appropriations may be mentioned the funds provided to put into effect the provisions of the Chandler-Wallis Act for improved service by the State hospitals. The providing of funds to improve the conditions of the unfortunates confined within these hospitals is clearly one of the most urgent demands upon the state, but I mention the effect of this item upon the budget to show you the consequences when even the most urgent problems are added to the irreducible costs of education, operation of the courts and other items in which few reductions are possible.

The combined result of increased appropriations after passage of the last regular budget act, and a decline of revenues under estimates, has created an apparent deficit of $984,148.88 in the budget of the present fiscal year, and this amount of appropriations must be withheld from actual expenditures in order that outlays for current operations may not exceed the estimated income as now reported by the Commissioner of Finance. This also means that any reduction in the state debt during the present year would require an additional withholding of appropriations, or increase in actual receipts above estimates.

On December 12, 1939, according to the official records of the Department of Finance, outstanding warrants unpaid amounted to $7,557,990.87 as follows: current warrants authorized, $355,798.41; interest-bearing warrants called for payment, $290,892.46; interest-bearing warrants not called for payment, $6,911,300.00. To liquidate the interest-bearing indebtedness of the State even during the ensuing four-year period would require approximately $1,750,000.00 per annum.

With the estimate of receipts for the next 2 years at $25,500,000 annually, slightly more than the estimate for the present year, to carry on the policy of further liquidation of the present State debt, it is impossible to increase the total expenditures for current operations above the amount authorized for the present year. To do so would surely run the state in the red. Your attention has been directed especially to the increase of the budget bill for the present year through subsequent Acts carrying special appropriations and through requirements of general statutes. With the narrow margins between recommended appropriations and estimated receipts, such a procedure after the adoption of the proposed budget would most certainly run us in the red. Any substantial increases over recommendations in the aggregate would necessarily have the same effect. Under these conditions I urge that a policy of rigid economy be followed to the end that progress in the widened scope of State services may be maintained and yet a sound financial condition of the State Treasury be assured.

The law directs that the Governor submit to the General Assembly a prepared budget. Some of you are serving in the Legislature for the first time and it is important that you understand that there can be no legal expenditure of state money unless it has been specified in the budget act.

The budget which will be laid before you has been carefully considered and thoughtfully studied by the state budget officer, the Commissioner of Finance, the Governor and the Legislative Council. Heads of all state departments and institutions were invited to appear before the Legislative Council for hearings on their budget requests. Diligent effort has been made to make an equitable appropriation for each item.

Requests for appropriations were made by heads of departments and institutions which totaled $32,955,843 and $33,316,373 for the two years. If we had that much money avail-

able, the Governor could present to you a budget bill in which each department or institution would have all the money requested. Unhappily such is not the case. The Legislative Council and the Governor faced the painful and difficult task of cutting the budget down to make it fit the money available.

The budget which I ask you to enact into law totals $26,029,900.05 for the first year and $26,286,437.55 for the second year. That contrasts with actual appropriations for the current fiscal year in which we are now operating (1939-1940) which total $26,296,387.23. Two years ago the Legislature passed a budget bill in which it appropriated $24,715,131.10. Later in the session and in extra sessions special appropriations were made which increased the possible total obligations of the state for this fiscal year to $26,296,387.23. Anticipated revenue had been estimated at $28,381,000 for the present fiscal year. However, altered conditions forced the Commissioner of Revenue to reduce his estimate to $25,312,238.35, a drop of $3,068,761.65.

I am repeating these figures previously referred to in order that I may point out to you what happened two years ago, with the hope that you will help me avoid the mistake of passing special acts which require money in addition to that set up in the budget bill.

In the budget I will submit to you there has been no reduction in the appropriation of any department or agency, with the exception of a cut in the appropriation for public buildings. Every function of your state government has operated reasonably well, your institutions of higher learning, your charitable and penal institutions have managed to get by fairly well the last two years on the appropriations they have had. While the increased money sought by these department chiefs and institutional heads would be wisely expended if it were available, I have no doubt that they can operate all right the next two years on the appropriations recommended. Our financial situation is such that we cannot grant the increases

requested, although I have no doubt such would result in improved and increased services which would be desirable if we had the money with which to pay for them. We are confronted with a condition which makes it necessary for us to get along without many things and services we would like to have but cannot afford. In some instances extraordinary appropriations for capital outlay in the last budget have not been repeated but such appropriations which were made to construct new buildings or permanent improvements are never regarded as other than extraordinary.

The extensive building program of the administration just closed required an appropriation for the present fiscal year of $1,369,561.55. It has become necessary to reduce the money made available for this purpose to $600,000 for each year of the biennium.

Although this may appear to be an abrupt reduction in the appropriation for further improvement of these institutions, you should take into consideration the fact that the buildings already completed or in process of construction relieve the most acute building needs of the penal and hospital systems. The pace of further improvements may properly be slowed somewhat as buildings completed relieve the urgency of the needs. With the most acute phase of overcrowding now relieved, or in process of being relieved, it becomes possible to obtain further improvement with less expenditure by modernization of existing plants.

The provision of adequate trained staffs and personnel must be continued no less than the provision of physical facilities for the hospital system.

There are three major increases in the budget before you which are the result of the demands of the citizens of the State. The greatest increase is the addition of $1,000,000 more to the annual appropriations for Social Security, the greater portion of which goes to pay Old Age Assistance. This will provide funds to pay the increased maximum of $30 a month to

those who qualify under the Federal and state acts to receive this amount on a basis of need, and will permit increases also in the payments to those who legally qualify for smaller amounts. It will also permit the making of old age assistance payments to those persons who have already established qualification but for whom sufficient funds have not been appropriated.

I believe this additional $1,000,000 is a reasonable and justifiable increase for this worthy purpose. But I am positive that it would be folly to try to appropriate more money for this purpose, if we are to keep the state's finances on the solid foundation of solvency.

In setting the increase in this appropriation at $1,000,000, the Governor, the Legislative Council and the state officials familiar with this activity have taken into consideration the fact that Federal Old Age Retirement benefits became operative on January 1. This feature of the Social Security Act will provide retirement benefits to an increasing number of aged workers who have contributed to the retirement fund through salary and wage deductions, and will result in lessening from year to year hereafter the number of persons who will be qualified to seek Old Age Assistance.

The second largest item which increases the total of the budget is a new appropriation never hitherto made, to finance a teachers' retirement plan. The law was passed two years ago to become operative in 1940. So it becomes our obligation to provide money with which to finance it. The Governor and the Legislative Council have made careful inquiry into the matter and recommend that $500,000 a year be appropriated for that purpose, or so much thereof as may be required to match contributions of teachers made to the retirement fund. Amendments also should be made to the act passed two years ago to make it effective and workable.

Inasmuch as considerable time will be required to set up the machinery for a retirement system of this size, and further since it is desirable that each teacher who will benefit under the act should make some contribution toward its cost, I am recommending that the payment of benefits under the teacher retirement act should be started July 1, 1942. This is in line with the policy of the Federal Government in setting up the old age retirement feature of the Social Security Act, where payment of benefits was deferred for a number of years until the system was soundly established.

This is a humanitarian piece of legislation and by starting benefit payments after two years, each teacher will be given the opportunity to contribute to a common fund which through the years will assure those teachers who have given a lifetime of service to the childhood of the commonwealth a certain degree of safety and security in the twilight years of their lives.

It would be manifestly unfair to start paying retirement benefits immediately before any teachers had contributed to the building up of the retirement fund, because in that case many teachers would be paying into a fund presumably intended for their own security but which would be drawn upon by other teachers who had not made such a contribution. It was to avoid such an unfair procedure that the Federal Social Security Act deferred old age retirement benefits until benefited workers should have paid something into the retirement fund.

A third item which represents a major increase in the budget is made necessary by recent demands of the Federal Government through the WPA that the state contribute $10,000 a month to provide for the distribution of surplus food commodities among the needy of the state from foods supplied by the Surplus Commodities Corporation. That increases our expense $120,000 a year. In order to take care of this item the appropriation for Emergency Relief, which was

$150,000 in the last budget, has been increased to $200,000. It will be necessary to ask you to pass a deficit emergency appropriation so as to make $10,000 a month available for this food distribution from December 15 until the close of this fiscal year.

The budget carries funds sufficient to provide a per capita school fund of $12 for every child of school age in Kentucky on the basis of the estimated school census prepared by the Department of Education. Except for a minor variation of a few cents in the present year when the actual school census was found to be less than previous estimates, the level of $12 per capita is the highest that has ever been provided for the common school system in Kentucky. Together with the appropriations for institutions of higher learning, including the schools for Negroes, and for vocational education, this appropriation for the common school per capita means that the state will continue to spend approximately half its general fund receipts for education. This is properly placing the emphasis where the emphasis belongs, but it also leaves a relatively narrow margin to carry on all the other necessary functions of government. Any increase of the per capita above $12, consequently, can not be provided at this time. A common school fund of $15 per capita, such as has been suggested by some, would require an increase of $2,400,000 in this appropriation. Since we do not have the money, this increase obviously can not be made. Relief for the most acute needs, where additional state support is desirable, will be provided if the proposed constitutional authorization for an equalization fund is approved.

There is another item in the budget to which I wish to call special attention, and that is the appropriation for interest on state warrants. It is necessary that you provide only $150,000 for this purpose. In the budget act four years ago it was necessary to provide $1,100,000 for interest on the state debt. This large saving has contributed substantially to the

increased assumption of social responsibilities by the state without necessity for tax increases. It is visible evidence of the financial progress made by the state during Governor Chandler's administration.

This budget provides for the spending of a big sum of money. Total expenditures of governmental agencies continue to increase. This is due primarily to the fact that we the people continue to demand that the government do more and more for us. The wants of the people continue to grow faster than the ability of the taxpayers to meet them. I feel that we should put the brakes on increased spending as tightly as we can. You will note that the three major increases in this budget come as result of increased wants and needs of substantial groups of the citizenship. That explains increased money for Old Age Assistance, teachers retirement and food for the needy.

You will readily see that there is an apparent discrepancy between our estimated general fund revenues of $25,500.000 and $25,513,000 and a proposed budget of $26,029,900.05 and $26,286,437.55. I am determined, with your help, to keep Kentucky in a position where she will not spend more money than she takes in. I promise you that my chief concern will be to watch expenditures after you have finished the legislative job, and try to encourage saving as much money as is possible.

There are two large items in the budget over which the Governor particularly may expect to exercise a large measure of control. One of them is the $600,000 for new buildings, repairs, maintenance and equipment. The other is the $200,000 emergency fund. I promise you that a large part of these two sums, which total $800,000, will be expended slowly and only when it becomes apparent that the money is actually going to be available. This provides one element of leeway to narrow the apparent spread between estimated revenues and proposed expenditures. Another item of leeway to narrow

this spread consists of the results to be obtained by those measures strengthening the tax laws which will be proposed.

The program of improved management started with passage of the Chandler-Wallis Act for rehabilitation of the hospitals for the mentally ill has made progress. In the last two years more money has been spent on these institutions than ever before in history. The same amount of money for operation would be again made available under the budget to the submitted.

The best medical thought available has been concentrated on the problem. The emphasis has been shifted from trying to operate the hospitals for the mentally sick as cheaply as possible and is now being placed on giving better care and treatment and increasing the medical and nursing staff and increasing the number and quality of attendance.

The year before the Chandler-Wallis Act the state expended in operating these three hospitals and the Feeble-Minded Institute $120.26 for each inmate. The number of employees totaled 613. In this the present fiscal year the expenditure per inmate has been increased to $170.00 and the number of employees has increased to 783 in accordance with expert psychiatric advice. Improved medical attention, better nursing and attendant care has been made available.

A modern psychiatric hospital is under construction on a state farm of 1700 acres in Boyle county. Money is available to complete the first phase of its construction and make it a complete hospital unit. As result of counsel with a committee of outstanding Kentucky physicians, representing the Kentucky Medical Association, I am suggesting that our next chief concern be to completely renovate the buildings at each of the three hospitals for the mentally ill and the Feeble-Minded Institute. I have requested estimates of the cost of doing over Eastern State Hospital, which is in a greater state of disrepair than the others. For an expenditure of $117,000 I am

assured that the entire plant can be completely renovated, painted, plastered and a general job of house-smithing done. Within that estimate it is contemplated to reduce the fire hazard by installing a sprinkler system, fire escapes, fire-proofing the stairs and install needed fixed equipment such as a badly needed laundry plant. It is believed that the other institutions can be placed in first class condition for an expenditure of approximately $100,000 each. I submit to you that this is the most imperative need of the immediate present.

Approximately $300,000 of the proposed $600,000 building appropriation will be sufficient to do that work which is most necessary, and the balance of the building appropriation would be spent for further improvements in the way of new buildings, repairs and maintenance if the state's income provided sufficient funds.

Engineers who have at my request examined the Capitol Building report to me that it is unwise further to defer spending about $100,000 a year for two years in repairs on this structure.

Kentucky is fortunate in having one of the best health departments in the Nation. The vital importance of the work of this department has been demonstrated in improved health conditions and in the fine record made following major catastrophes when epidemic sickness might ordinarily be anticipated. It is important that provision of necessary funds continue to be made for the work of this department to the fullest extent of the revenues available. The sum provided for this department in the budget was the most generous that appeared to be possible within this necessary limitation.

The Legislative Council of which Gov. Myers is chairman, has worked hard and has given valuable service to the state in helping to prepare the budget which I today hand to you, and in preparing various specific measures of legislation. I wish to acknowledge their invaluable and unselfish efforts.

The budget is an involved and intricate subject, in which is reflected the necessary activities of every state department and agency. Since it has been necessary to apportion the available funds as equitably as possible among all these departments and agencies, without being able to give any of them the increases which might be desirable if sufficient funds were available, it would be manifestly unfair to disturb the equity of these apportionments. Increases, if granted to some agencies, would be unfair to other departments whose needs are as great but for whom increased revenues are not available. I therefore ask you to pass the budget act without making any increase in any single item. I further ask you to send the completed appropriation bill to me promptly as your first act.

I am happy to be able to commend to you the elected state officials who share with me and with you the responsibility of the new administration. They have given evidence of their conscientious desire to help give to the Governor, the Legislature and the people the cooperation and helpful service through which the cause of good government may be advanced.

You have selected able and experienced men to form your official legislative organization. Their opportunities for effective and valuable service to the state will depend in a large measure on the cooperation which the individual members of the Legislature give them. I ask you to give them the same loyalty and support which you have evidenced to the administration of which they are a part.

There is nothing factional or partisan in the administration recommendations which I have presented to you. I repeat now what I have said repeatedly throughout the length and breadth of Kentucky, that I have no malice or bitterness in my heart against any man because of past political differences. I am today the Governor of all the people of all the state, without regard to race or color or creed or political

belief, and it is in that spirit that I have formulated my recommendations to you. It is in that spirit that I request your support and helpful cooperation in translating these recommendations into accomplished legislation.

If these recommendations are in furtherance of good government and of greater service to the people as I conceive them to be, there is a proper satisfaction to be enjoyed by all those who have a part in translating them into accomplishment, and credit for them should be shared by each of you. I have not proposed anything here which will bring any member of the Legislature into disfavor with the people of his own district or with the people of the whole state in whose behalf you work here.

There will be a great mass of legislation considered by you outside of the administration's program, and in which the administration as such will not have any direct concern unless it obviously works against the general welfare of the people. I would particularly ask you to consider such legislative proposals in the light of the welfare of the state as a whole. I specifically ask you to bear in mind that we can best serve Kentucky by maintaining the principle of fair treatment for all and special privilege for none. By this attitude, by preserving a solid financial structure and by maintaining stable and fair policies of taxation, we may over a course of years attract increased trade, business, industry, capital and opportunities for employment within our boundaries.

The Honorable Rodes K. Myers, Lieutenant Governor and Chairman of the Legislative Council, produced and read before the Joint Session of the Legislature the report of the Legislative Council.

Said report is as follows, viz.:

To: THE MEMBERS OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY

Pursuant to call of the Lieutenant Governor, Chairman

of the Legislative Council, the Council assembled on December 14, for the purpose of considering the legislative program for the 1940 Regular Session of the General Assembly. With the exception of week-end recesses, the Council was in continuous session since that date until the date of this report.

Believing the outstanding legislative problem to be the balancing of the Budget, the Council devoted the major portion of its time to hearings and consideration of budget requests, and the strengthening of present tax laws to bring about the largest dollar return.

BUDGET

The various Departments and governmental agencies of the State requested a total appropriation of approximately $33,000,000.00. The anticipated General Fund revenue from tax revenue, based on figures given to us by the Department of Revenue, totaled $24,352,650.00 for the year 1940-41; and $24,365,650.00 for the year 1941-42. The anticipated receipts clearing through the Department of Finance are conservatively estimated at $1,147,350.00 for 1941, and $1,147,350.00 for 1941-42; making a total of anticipated receipts for the year 1940-41 at $25,500,000.00, and for the year 1941-42; $25,513,000.00.

Therefore, faced with this problem, the Council notified through the press and in other ways the various governmental agencies and Departments that it would conduct hearings on their budgetary requests. These hearings extended over a period of several days and after conferring with the State Budget Officer and receiving the recommendations of the Governor of Kentucky, the Council went into executive session and reached the following conclusions as set forth in the following recommendations:

		RECOMMENDED	
		1940-1941	1941-1942
10	Legislative Sessions	$ 10,000.00	$ 170,000.00
20	Legislative Council	5,000.00	5,000.00
30	Lieutenant Governor	500.00	1,000.00

50	Council of State Government	250.00	250.00
100	Court of Appeals	34,000.00	34,000.00
110	Clerk of Court of Appeals	16,000.00	16,000.00
120	Judicial Council	800.00	800.00
132	Clerks Services	115,000.00	115,000.00
142	Criminal Prosecutions	500,000.00	500,000.00
162	Jury Commissioners	3,500.00	3,500.00
172	Trustee Jury Fund	500,000.00	500,000.00
182	Commission Fines and Forfeitures	240,000.00	240,000.00
150	Salaries Judges and Commonwealth Attorneys	278,000.00	278,000.00
192	Return of Escaped Convicts	6,000.00	6,000.00
194	Rewards	300.00	300.00
200	Governor	20,750.00	20,750.00
210	Executive Cabinet	4,000.00	4,000.00
220	Contingent Fund	6,000.00	6,000.00
230	General Emergency	200,000.00	200,000.00
300	Secretary of State	19,300.00	19,300.00
310	Land Office	1,200.00	1,200.00
350	Attorney General	40,000.00	40,000.00
360	Costs of Suits	6,000.00	6,000.00
370	Statute Revision Commission	18,000.00	18,000.00
400	State Treasurer	31,000.00	31,000.00
——	State Treasurer (Capital Outlay)	5,000.00	....
410	Custodian of Securities	600.00	600.00
450	Auditor of Public Accts	35,000.00	35,000.00
500	Commissioner of Finance	153,737.00	and receipts 153,737.00
510	Budget		

520	Personnel Efficiency)		
530	Accounts and Control)		
550	Purchases)		
570	Public Properties	125,000.00	125,000.00
590	Public Printing	16,000.00	16,000.00
600	Public Record Books	20,925.00	20,925.00
610	Registration Books	500.00	500.00
620	Paper for Ballots and General Assembly	8,000.00	8,000.00
630	Paper Revolving	20,000.00	20,000.00
640	Postage Revolving	10,000.00	10,000.00
650	Confederate Pensions	170,000.00	160,000.00
697	Interest on Warrants	150,000.00	150,000.00
700	Commissioner of)		
	Revenue)	362,000.00	362,000.00
701	General Taxation)		
720	Income Taxation)		
730	Excise Taxation)		
740	Field)		
750	Research and Statistics)		
760	Alcoholic Control)		
800	County Tax Commissioners	307,000.00	307,000.00
810	County Board of Supervisors	27,000.00	27,000.00
850	Board of Election Commissioners	500.00	500.00
870	Board of Registration and Purgation	1,000.00	1,000.00
	Presidential Electors	700.00	
1000	Director of Conservation	6,500.00	6,500.00
1010	Division of State Parks	25,000.00	25,000.00
1020	Division of Forestry	14,000.00	14,000.00
1030	Division of Publicity	20,000.00	20,000.00
1040	My Old Kentucky Home	10,000.00	10,000.00

	Restoration Constitutional Hall	6,000.00	6,000.00
1050	Adjutant General	30,000.00	30,000.00
1060	Veterans Division	18,000.00	18,000.00
1070	Division of Armories	42,000.00	42,000.00
1100	Division of Agriculture	10,500.00	10,500.00
1110	Office and Travel Expense	5,000.00	5,000.00
1140	Tobacco Warehouse Activities	6,000.00	6,000.00
1190	Bureau of Markets	15,000.00	15,000.00
1200	Per Diems and Expenses	1,050.00	1,050.00
1210	Livestock	20,000.00	20,000.00
1225	Diseases of Livestock	1,500.00	1,500.00
1240	Bangs Disease	21,000.00	21,000.00
1260	Kentucky State Fair	80,000.00	80,000.00
1270	Kentucky State Fair Premiums	45,000.00	45,000.00
1287	M. & M. Building Bonds	8,000.00	14,000.00
1290	Boys and Girls Clubs	5,000.00	5,000.00
1300	State Fair Board	1,250.00	1,250.00
1400	Department of Health	150,000.00	150,000.00
1410	Prevention of Blindness	2,500.00	2,500.00
1420	Laboratory	5,000.00	5,000.00
1440	County Health	244,500.00	244,500.00
1460	Visiting Nurses	6,000.00	6,000.00
1470	Hazelwood Sanatorium	88,000.00	88,000.00
	Interest on Bonds (Not included in General Fund to be paid from revolving fund of Department of Health)	5,967.50	5,705.00
1490	Kentucky Crippled Children's Commission	90,000.00	90,000.00
	Commissioner of Welfare-Institutions	2,290,000.00	2,310.000.00

	Commissioner of Welfare Social Securities	4,000,000.00	4,000,000.00
1600	Home for Incurables	15,000.00	15,000.00
1610	Colored Red Cross Hospital	4,000.00	4,000.00
1830	New Lands and Buildings	600,000.00	600,000.00
1850	Emergency Relief	200,000.00	200,000.00
1860	Conveyance of Lunatics	9,000.00	9,000.00
1870	Pauper Idiots	73,000.00	73,000.00
1880	Julius Marks Sanatorium	10,000.00	10,000.00
1890	Covington-Kenton County-T. B. Sanatorium	7,500.00	7,500.00
2000	Superintendent of Public Instructions	60,000.00	60,000.00
2010	Division of Certification	15,000.00	15,000.00
2030	State Board of Education	15,000.00	15,000.00
2040	Free Text Books Commission	500.00	500.00
2050	Common School Per Capita	9,600,000.00	9,700,000.00
2060	Common School— Free Text Books	500,000.00	500,000.00
2070	War Orphans	1,400.00	1,400.00
2080	Vocational Education	40,000.00	40,000.00
2090	Vocational Rehabilitation	21,380.55	21,380.55
2100	Kentucky State College for Negroes	110,000.00	110,000.00
2120	West Kentucky Vocational Training School	40,000.00	40,000.00
2140	College Tuition for Negroes	8,000.00	9,000.00
2200	Kentucky School for Blind (White)	61,500.00	61,500.00
2210	Kentucky School for Blind (Colored)	7,000.00	7,000.00

2220	Workshop for Adult Blind	14,800.00	14,800.00
2250	Kentucky School for Deaf (White)	115,000.00	115,000.00
2260	Kentucky School for Deaf (Colored)	8,500.00	8,500.00
2270	Teachers Retirement	500,000.00	500,000.00
2300	University of Kentucky	818,000.00	818,000.00
2310	College of Agriculture	24,000.00	24,000.00
2320	Summer School	10,000.00	10,000.00
2330	Experiment Station	48,000.00	48,000.00
	New Tobacco Uses	7,500.00	7,500.00
2340	Service Laboratory	21,000.00	21,000.00
2350	Nursery	2,000.00	2,000.00
2360	Princeton Sub-station	16,000.00	16,000.00
2370	Quicksand Substation	16,000.00	16,000.00
2380	Agriculture Experiment	130,000.00	130,000.00
2400	Repairs	12,000.00	12,000.00
2410	Library Equipment	10,000.00	10,000.00
2420	Science Laboratory	20,000.00	20,000.00
2430	Engineering Equipment	25,000.00	25,000.00
	Home Economics Equipment	15,000.00	....
2480	Repairs	4,000.00	4,000.00
2500	Eastern State Teachers College	261,000.00	261,000.00
2510	Morehead State Teachers College	219,000.00	219,000.00
2520	Murray State Teachers College	239,000.00	239,000.00
2540	Western State Teachers College	360,000.00	360,000.00
2570	Mayo Vocational School	25,000.00	25,000.00
2600	Law Librarian	9,000.00	9,000.00
2610	Law Library	3,500.00	3,500.00

2620	Law Library—Distributions	500.00	500.00
2630	Law Library—Sales Account	10,000.00	10,000.00
2640	Library Extension	11,000.00	11,000.00
2650	Kentucky State Historical Society	7,715.00	7,715.00
2710	Business Regulations—Athletic Control	6,500.00	6,500.00
2720	Banking and Small Loans	45,000.00	45,000.00
2730	Insurance	45,000.00 and receipts	45,000.00 and receipts
2740	Securities	7,500.00	7,500.00
2800	Industrial Relations—Commissioner	9,000.00	9,000.00
2810	Division of Wage Hours—Women and Minors	10,000.00	10,000.00
2820	Kentucky State Employment Service	60,000.00	60,000.00
2826	Labor and Statistics	16,000.00	16,000.00
2830	Division of Coal Mining	25,000.00	25,000.00
2840	Division of Geology	12,000.00 and receipts	12,000.00 and receipts
2870	Railroad Commission	20,000.00	20,000.00
3110	Money Refunded	50,000.00	50,000.00
3120	Bonds of Elective Officers	2,500.00	2,500.00
3140	Judgments	10,000.00	10,000.00
3150	Interest on Land Grants	9,900.00	9,900.00
3170	Frankfort Cemetery	250.00	250.00
3180	Statutes and Codes for Courts	3,000.00	3,000.00
3115	Interest on Non-resident tax deposits	125.00	125.00
3200	Jefferson County	450,000.00	450,000.00

3250	Kenton County	85,000.00	85,000.00
3260	County Highway Patrol	60,000.00	60,000.00
		$26,029,900.05	$26,286,437.55

The above recommended appropriations, with few exceptions are equivalent to the amount of money either expended during the preceding biennium, or believed by the Council to be sufficient for economic operation of the respective agencies and Departments and for carrying on of necessary governmental functions.

It is the belief of the Council that few of the agencies of State government requested more money than they actually needed and could have used for the benefit of the Commonwealth and welfare of the people, and although the Council desired to recommend the requested appropriations and are in sympathy with the proposals submitted, the Council is convinced that sound financial government under present tax income required the refusal of the requests.

The Budget contains an increase of one million dollars for Social Security; which amount is the smallest sum which could be appropriated to provide for the financing of Social Security legislation in the Commonwealth when the same is amended, as hereinafter recommended.

The Council also recommends an increase of $44,000.00 for tubercular treatment at Hazelwood Sanitorium. This amount, although a 100% increase for this appropriation, falls far short of the sum necessary for the care of tubercular patients and the treatment and prevention of the disease. It, however, represents all which the financial condition of the State at this time will permit.

It also will be observed that the amount appropriated for Teachers Retirement is $350,000 less than the amount requested by the Kentucky Educational Association and the Department of Education.

The Council, however, are of the firm conviction that they and the General Assembly could not justify or defend an expenditure of a sum in excess of $500,000.00 for Teachers Retirement when vital and necessary functions of government were, from necessity, being curtailed and when a sum in excess of that amount would cause Kentucky to expend annually more than her income. This sum, however, as we are advised by actuarial experts will, under the recommended Teachers Retirement Law as briefed in this report, provided for the adequate financing of a sound Teachers Retirement plan.

It will also be noticed that the appropriations for new buildings have been reduced more than $700,000. The sum appropriated, however, is sufficient to complete the unit of the mental hospital now under construction which will provide proper care and treatment for 200 patients and will provide for the repairs and renovation necessary to the proper operation of the mental hospitals and other penal and charitable institutions. This further will provide for the completion of the maximum security penitentiary at Eddyville.

The total of the Budget is $26,029,900.05 for 1940-41 which in comparison with the Appropriations Bill enacted in 1938, appears to be $1,314,879.95 in excess of the 1938-39 budget. However, we must call attention to the fact that after the adoption of the last biennial budget that the General Assembly had by special Act appropriated $1,581,256.13 which made the total budget for the fiscal year 1938-39 $26,296,387.23.

The budget the Council recommends to the General Assembly is for the first year of the ensuing biennium $266,587.18 less than the 1938-39 total appropriations, although it provides for every function of government required in the special acts adopted by the 1938 General Assembly. Total appropriation for the second year of the ensuing biennium is $26,286,437.55.

TAXES

With the budget as adopted totaling the sum of $26,029,-900.05 and $26,286,437.55 and the anticipated revenue and

receipts aggregating the sum of $25,500,000.00 and $25,513,-000.00, the Council was faced with the shortage of income in the approximate sum of $500,000.00 and $775,000.00 for the first and second years respectively. The council then called upon the Research Director of the Legislative Council and the Department of Revenue to assist in finding ways to increase the income of the State without the enactment of any new taxes. After considering various proposals, the Council ascertained that a sufficient sum could conservatively be anticipated by strengthening and amending present tax laws and by enactment of a chain store license law in lieu of the one held invalid by the courts.

The Council therefore recommends that present statutes be amended as follows:

1. Since as a practical matter the number of car line companies operating in Kentucky escapes local taxation, and in order to equalize the taxes applicable alike to car line companies and other franchise tax paying companies, that the state tax rate imposed upon the property of car line companies be increased from fifty cents (50¢) to one dollar and fifty cents ($1.50) per hundred dollars assessed valuation, and that such car line companies be exempted from all local taxation.

2. Since the Kentucky cigarette tax is imposed only on the sale of cigarettes making it impossible to collect an excise tax on cigarettes consumed in Kentucky and secured through interstate sales, and since the cigarette license tax now applicable to retail merchants vending cigarettes tends to discourage the consumption of taxpaid cigarettes, there should be substituted for the license privilege for the sale of cigarettes a license of $25.00 annually to be issued through the county court clerks on the possession of unstamped cigarettes.

3. Since the minimum tax of five cents now imposed upon a container of wine operates to reduce the consumption of wine in Kentucky, and thereby decrease revenues, the mini-

mum tax on a container of wine should be reduced to two cents; provided, however, that the tax of twenty-five cents a gallon on the retail consumption of wine shall be maintained, and the tax on retail containers of wine of varying sizes shall be pro rated as equitably as practicable.

4. Since accounts receivable are frequently grossly under-assessed it should be provided that under-assessment by the county board of supervisors, or approval thereof by the Kentucky Tax Commission, should not bar reassessment at the fair, cash value within three years from the date of assessment.

5. Since banks and certain officials and corporations have in their custody large funds, the legal and equitable owners of which cannot be ascertained, a law providing for the transfer of these funds to the State Treasury where they shall be held in trust and may be escheated by action instituted by the Department of Revenue, should be enacted.

6. Since without undue burden to the liquor industry or the consuming public the consumption excise tax now imposed upon distilled spirits and wine may be increased, it is hereby recommended that such tax be increased to one dollar and twenty cents ($1.20) per gallon.

7. Since chain store merchandising has certain inherent advantages, it is recommended that for the protection of independent merchants chain merchandising organizations be regulated by license and the imposition of a fee therefor.

8. Since the occupational licenses imposed upon theaters, restaurants, pool rooms and billiard halls, and the sale of ice cream and soft drinks, do not constitute a serious burden to business activity, and are practicable of administration, it is recommended that they be continued, and that the repealing legislation enacted in 1938 be nullified.

FINANCIAL CONCLUSION

If the General Assembly will pass the Budget Bill as recommended by this Council and as will be recommended by the Governor, and will amend the statutes above set forth for the additional revenue, Kentucky's Budget will be balanced for the next biennium.

OLD AGE PENSIONS

The Council hereby recommends that the present Old Age Assistance Law be amended to permit the payment to those persons in need of such a sum, the maximum of $30.00 per month. The Council further recommends that the Old Age Assistance Act be further amended to remove that Section which gives the Commonwealth of Kentucky a lien on the homesteads of the recipients of Old Age Benefits.

FARM TENANCY COMMISSION

After hearing the report of the Kentucky Farm Bureau, the Council believes and does hereby recommend that the General Assembly should create as a Division of the Department of Agriculture a Farm Tenancy Commission, the personnel of which is to be appointed by the Governor of the Commonwealth and which shall consist of nine members; three of whom always shall have been land owners; three of whom shall have been at one time tenants but by economy and industry have become small land owners; and three of whom shall be successful tenants. Such Commission shall be empowered by the Law enacted to study the problem of growing farm tenancy in Kentucky and to make recommendations for the solution of the problem to the 1942 General Assembly.

FARM MARKETING

The Council also recommends the creation of the Farm Marketing Division of the Department of Agriculture to assist

in the marketing of farm products and in the creation of new markets for Kentucky's products. For this purpose, the Council has recommended and has included in the Budget Bill the sum of $15,000 per year. In connection with this Division of Farm Marketing, the Council has appropriated also the sum of $7,500 to the Agricultural Experiment Station at the University of Kentucky, earmarked for the financing of research and scientific experiments in the creation of new uses of tobacco.

GASOLINE TAX

The Council studied proposals submitted by the Farm Bureau Federation for a law granting refunds on taxes paid on gasoline used to propel farm equipment. Though the Council has given this matter considerable thought and has had many facts brought to its attention, it is believed by the members of the Council that they are not sufficiently advised at this time to make a recommendation to the General Assembly. The Council has, therefore, ordered the Research Director to assemble all the information and facts, and furnish to the members of the General Assembly a written fact finding report, without expression of opinion, on gasoline tax refund legislation.

EDUCATION

School Per Capita

In the appropriations, the Council has recommended an appropriation of $9,600,000.00 for the year 1940-41; and $9,700,000.00 for the year 1941-42, which, according to the number of school children in Kentucky, will provide a per capita of approximately $12.19. We heard the Department of Education and the Kentucky Educational Association on their requests for $15.00 per capita and although the Council is convinced that Kentucky's educational system and the

opportunities for Kentucky's childhood could be improved immeasurably by this per capita increase, such an appropriation is impossible under the present revenue.

Teachers Retirement

The present Teachers Retirement Law, the Council believes, is financially inequitable in that it provides for benefits to be paid to those who are now 60 years of age and voluntarily retire, without having participated in or contributed to the creation of the Retirement Fund. The Old Age Insurance Law enacted by the Federal Government in 1937 recognized the fallacy of permitting benefits to be paid to those persons who had not contributed and thereby required approximately four years to intervene between the time of the payment of contributions by the employee and the date that retirement funds would be made available to persons retiring. After conferring with and hearing many individuals and after having the benefit of the advice of Dr. E. Z. Palmer from an actuarial standpoint, the Council recommends the re-enactment of the Teachers Retirement Law so as to provide for the maximum payment of $50.00 per month with a reduction of the percentage contribution of teachers to a percent sufficient on an actuarial basis to provide the necessary funds; such contributions to be paid by the teachers on and after the effective date of said Act, with the provision that no benefits are to be paid to any person who has not served two school years as a teacher after the effective date of said Act, before retiring, and who has not come under the Act by participating. Sound financial policy also requires that the Act require that all new teachers be compelled to come under the Teachers Retirement Law. The Council has requested Dr. Palmer of the University of Kentucky who is well qualified, to prepare the measure and if it is enacted with the above recommendations incorporated, the appropriation of $500,000 or less per year for the

next biennial will be sufficient. Such sum appropriated shall not be expended except in an amount equal to the total contributions paid in by the teachers coming under the Act each year. The Council, therefore, recommends the re-enactment of the Teachers Retirement Act in accordance with the above suggestions.

INDUSTRIAL PEACE OFFICERS

In 1938 the General Assembly enacted the Industrial Peace Officers Act, requiring any industry desiring to employ an individual to be used in the capacity of a peace officer to apply to the Governor for a Commission, and to pay into the Commonwealth a sum sufficient to take care of the salary of such officer. This act did not take into consideration the cost of its administration, requiring the Commonwealth to pay from the General Fund such costs with the result that during the last biennium the Governor of the Commonwealth transferred from his Emergency Fund monies for the cost of its administration. The Council therefore recommends that this Act be amended to provide that each application for a Commission for an Industrial Peace Officer be accompanied with a fee to be used for the payment of the costs of administration; the amount of such fee to be that amount which will represent the pro rata cost per capita of each Peace Officer. It is the belief of the Council that a five dollar ($5.00) fee with each application would be sufficient for the cost of this administration.

COMPULSORY PRIMARY LAW

In the enactment of the Compulsory Primary Law the General Assembly, through oversight, failed to exempt the election of Presidential Electors and in the ensuing year, unless this Act is amended, the Presidential Electors of both

parties will have to be selected in a primary. Such was not contemplated by the General Assembly of 1938 and such was not believed to be the Law by this Council until it was brought to its attention by a distinguished jurist of Kentucky. The Council therefore recommends that the General Assembly amend the Compulsory Primary Law exempting therefrom Presidential Electors.

LIBRARY SALES ACT

The Council, after investigation, finds that due to a statute which has been the law for many years, it is required that Kentucky have printed one thousand copies of each of the Kentucky Reports; one thousand copies of the Acts of the General Assembly; and one thousand copies each of the Journals of the House and Senate. The compliance with this Law has resulted in the accumulation of over 44,000 unused volumes which are now stored in the basement of the Capitol and which have caused the useless expenditure of several thousands of dollars each year.

Based on the number of books which are sold by the Department of Libraries and the number which, under existing statutes, must be distributed without charge to certain officials of the State, the Council believes that 500 volumes per year are sufficient and therefore recommends that this old statute be amended so as to reduce the number from one thousand to five hundred. This will result in a saving of approximately $5,000 per year.

MISCELLANEOUS MEASURES

The Council also heard citizens of Kentucky on the subjects of seed certification; oil conservation; retirement of judges of the Court of Appeals; law clerks for the judges of the Court of Appeals; payment of costs on appeals; empower-

ing the Court of Appeals to make rules for the conduct of the circuit courts of the State; probation and parole of convicts; Liquor Fair Trade Act and soil conservation. The Council, however, does not have sufficient information in its possession to be advised concerning these various subjects and has no recommendations to make as to the enactment of these measures, but it does call the attention of the General Assembly to them and believes that they should have the consideration of the General Assembly.

CONCLUSION

The Council had hoped that the time would permit a study of a measure to prevent "dummy" candidates on ballots in primary elections. However, they have not had the opportunity but they do believe that the General Assembly should amend the primary election law to prevent "dummy" candidates and thereby requests that the Committee on Elections in both the House and Senate carefully study this subject and submit to their respective bodies a measure that will remove this evil.

The Council expresses their appreciation to the Governor of the Commonwealth for his frank and sincere discussions with it and to the other Departmental heads and agencies for their cooperative spirit with the Council in solving the financial problems of Kentucky.

The Council believes that every member of the General Assembly, irrespective of political affiliation, desires that Kentucky for the next biennium meet its obligations of Social Security, provide for the education and health of her citizenry and carry on the necessary governmental functions, but that these things be provided for in such a manner as will permit the Commonwealth to live within its income.

We desire to call to the attention of the members of the General Assembly that the Statute Revision Commission and

their assistants, and the Research Director of the Council, will be available to any member of the General Assembly during this Session for assistance in the preparation of any legislation.

Respectfully submitted,

RODES K. MYERS
Chairman

Stanley Mayer	John M. Hunnicutt
Member	*Member*
J. Lee Moore	Henry Ward
Member	*Member*
Hubert Meredith	E. C. Moore
Member	*Member*
Ira W. See	John A. Sugg, Jr.
Member	*Member*
Ray B. Moss	Margaret Woll
Member	*Member*
Otis White	Ervine Turner
Member	*Member*
Hobart Rayburn	Lee Gibson
Member	*Member*
Frank Daugherty	H. Clyde Reeves
Member	*Member*
B. F. Shields	John Buckingham
Member	*Member*
Joe Robinson	P. M. Basham
Member	*Member*
E. E. Shannon	
Member	

Senator Dawson moved that the Joint Session of the General Assembly do now dissolve.

Said motion was agreed to.

The Speaker resumed the Chair and called the House to order.

Mr. Joe E. Robinson moved that the report of the Legislative Council be filed with the Clerk of the House.

Said motion was agreed to.

Mr. Shehan spoke briefly eulogizing the memory of the late Adolph Wells, member from the 56th district, Jefferson county.

Mr. Savage moved that when the House adjourn today, it adjourn out of respect to the memory of the late Mr. Wells.

Said motion was agreed to.

Mr. Robinson moved that the House do now adjourn to meet again on tomorrow at twelve o'clock Meridian.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 3, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

J. Everett Bach	Van Y. Greene	Hobart Rayburn
H. T. Baker	Ralph C. Hamilton	Thomas Rigdon
G. M. Ballard	C. L. Hammons	W. H. Riley
Robert E. Barry	T. H. Hickey	Joe E. Robinson
Wm. T. Beard	Clyde S. Howard	Lyman Roll
Alvis S. Bennett	Chester Huffines	Jack Savage
Rell Bevins	John M. Hunnicutt	Carl Scheben
Sterling B. Blake	W. H. Hunt	Leon J. Shaikun
Douglas T. Bolling	R. L. Jackson	Ray O. Shehan
W. S. Brim	J. B. Jarboe, Jr.	Faust Y. Simpson
C. J. Bronston	Chas. X. Jones	Bruce Sloan
Gus A. Brooks	John S. Juett	Otto Smither
Randolph A. Brown	William K. King	E. T. Sparks
Haynes Carman	Robert E. Lee	G. C. Springate
Charles M. Carter	Harvey D. Leonard	J. Claude Stacy
James W. Chapman	Edward Leslie	Ray J. Stengel
S. B. Chrisman	Paul W. Lyon	Henry Stewart
John Coulter	C. C. May	W. St. Clair Stuart
John H. Cox	T. B. McConnell	T. M. Swope
Pink G. Curd	E. Hayes McMakin	Otis C. Thomas
W. Q. Daniel	Norris McPherson	Erna E. Tyra
F. E. Daugherty	Stanley C. Moebus	J. Wood Vance
Forrest C. Easley	John B. Mollette	Walter R. Vansant
Harry W. Ennis	Davis Moore	S. J. Wagner
R. R. Ernst	J. Lee Moore	Porter Wallace
Carlos Fallis	Joe T. Morgan	Harry F. Walters
T. P. Fitzpatrick	C. Homer Neikirk	Henry Ward
Cecil Florence	Carl D. Perkins	H. L. Waterfield
Wayne Freeman	B. W. Porter	Otis White
Eugene Gough	H. O. Porter	James H. Woods

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Mr. Hunnicutt moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Joe Robinson moved that the Rules of this House be suspended for the purpose of introducing a resolution and bill.

Said motion was agreed to.

Thereupon Mr. Robinson offered the following resolution, viz.:

H. Res. 3. Concurrent Resolution.

Be It Resolved by the House of Representatives the Senate concurring therein that the Commissioner of Public Printing be directed to order printed one thousand copies of the Governor's Message to the Joint Session of the General Assembly and also one thousand copies of the report of the Legislative Council submitted to the General Assembly on January 2, 1940.

Said resolution was adopted.

By Mr. Joe Robinson.

H. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the State Government of the Commonwealth of Kentucky, including each of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, and the purchase of record books as provided by Section 388, Kentucky Statutes, 1936 Edition, judiciary and court costs, Confederate pensions, the Frankfort Cemetery, Jefferson and Kenton County fees, and for defraying the expenses of all other State obligations for (a) the fiscal years ending June 30, 1941, and June 30, 1942, (b) the fiscal years of the Department of Highways ending March 31, 1941, and March 31, 1942, and (c) certain appropriations for the current fiscal year

ending June 30, 1940; designating the sources and funds from which said appropriations are made, describing the manner in which they are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions and subdivisions of the State Government; providing for the establishment of certain revolving funds specifically mentioned; providing for money refunds; authorizing and empowering the Governor of the Commonwealth of Kentucky to limit and restrict expenditures of money appropriated, and to reduce or adjust each of the appropriations herein made; authorizing the State Budget Officer, with the approval of the Commissioner of Finance, to make allotments and reallotments from the appropriations made to the various officers, departments, boards, commissions, institutions, agencies and subdivisions of the State Government; authorizing transfers of appropriations and allotments from one budget class to another budget class within the same budget unit; and to provide for certain appropriations to be limited to specific purposes, and barring the use of appropriations for certain purposes; and repealing all blanket and continuing appropriations not provided for in this Act and appropriations made by any previous Act or Acts of the General Assembly of the Commonwealth of Kentucky, and repealing all laws or parts of laws in conflict with any of the provisions of this Act; enacting each section and each subsection as a separate or specific appropriation.

Said bill reads as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1940, and ending June 30, 1941, the following sums for the following officers, departments, boards, commissions, institutions, and subdivi-

sions of the State Government, printing of County record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and any and all other agencies of the State Government of the Commonwealth of Kentucky subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which the specific appropriation is herein listed, excepting those listed in parts two and three of this Budget Act, for the following purposes:

PART ONE

1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation $10,000.00

(b) *Legislative Council.* For ordinary recurring expenses of operation $5,000.00

(c) *The Council of State Governments.* For aiding in the defraying of expenses of this Agency $250.00

(d) *Board of Election Commissioners.* For ordinary recurring expenses of operation $500.00

(e) *Board of Registration and Purgation.* For ordinary recurring expenses of operation $1,000.00

(f) *Presidential Electors.* For per diem and ordinary recurring expenses of operation $700.00

(g) *Railroad Commission.* For ordinary recurring expenses of operation $20,000.00

2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation $500.00

3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals.* For ordinary recurring expenses of operation $34,000.00

(b) *Clerk of Court of Appeals.* For ordinary recurring expenses of operation $16,000.00

(c) *Judicial Council.* For ordinary recurring expenses of operation $800.00

(d) *Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Fund, Commissions on Fines and Forfeitures.* For ordinary recurring expenses of operation of the laws applicable to Clerks' Services, Criminal Prosecutions, Jury Commissions, Trustees of Jury Funds, and Commissions on Fines and Forfeitures..... $1,358,500.00

(e) *Salaries—Judges and Commonwealth's Attorneys.* For ordinary recurring expenses of operation..... $278,000.00

(f) *Return of Escaped Convicts.* For ordinary recurring expenses of operation in paying for return of escaped convicts authorized by the Governor which have not been previously paid $6,000.00

(g) *Rewards.* For paying of rewards authorized by the Governor of the Commonwealth $300.00

4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expenses of operation $20,750.00

(b) *Executive Cabinet.* For ordinary recurring expenses of operation $4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent expenses of operation $6,000.00

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth and to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund $200,000.00

5. SECRETARY OF STATE

(a) *Secretary of State.* For ordinary recurring expenses of operation $19,300.00

(b) *Land Office.* For ordinary recurring expenses of operation $1,200.00

6. DEPARTMENT OF LAW

(a) *Attorney General.* For ordinary recurring expenses of operation $40,000.00

(b) *Cost of Suits.* For extraordinary expenses of operation and paying Clerks, Sheriffs, Public Officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to approval of the Department of Finance $6,000.00

(c) *Statute Revision Commission.* For ordinary recurring expenses of operation and extraordinary expenses deemed necessary by the Commission, when approved by the Commissioner of Finance $18,000.00

7. DEPARTMENT OF TREASURY

(a) *State Treasurer.* For ordinary recurring expenses of operation $31,000.00

(Of this amount, no sum shall be used for printing checks used for the State Highway Department and Old Age Assistance.)

(b) *State Treasurer.* Capital outlay for purchasing necessary equipment and bookkeeping machines to modernize bookkeeping procedure of the office $5,000.00

(c) *Custodian of Securities.* For ordinary recurring expenses of operation $600.00

8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts.* For ordinary recurring expenses of operation $35,000.00

(There is hereby appropriated to the Auditor of Public Accounts, for the use and benefit of said office, all of the fees that may be collected for the fiscal year.)

9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and*

Control, and Division of Purchases. For ordinary recurring expenses of operation and the various divisions within the Department of Finance and the administration of Confederate Pensions, and administration of Public Printing, ... $153,737.00

(b) *Division of Properties.* For Custodial care of public properties and for ordinary recurring expenses of operation $125,000.00

(c) *Public Printing Costs (Contractual Services).* For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units $16,000.00

(d) *Public Record Books (Paper and Printing).* For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year, ... $20,925.00

(e) *Registration Books and Supplies.* For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936, Regular Session $500.00

(f) *Paper for Election Ballots and General Assembly.* For ordinary recurring expenses in furnishing paper for ballots for State elections and for the General Assembly, as required by law $8,000.00

(g) *Paper (Revolving Fund).* To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units $20,000.00

(h) *Postage (Revolving Fund).* To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units $10,000.00

(i) *Confederate Pensions.* For ordinary recurring expenses in paying pensions now provided for by law... $170,000.00

(j) *Interest on Warrants.* For ordinary recurring expenses of interest due on outstanding interest-bearing warrants against the Commonwealth $150,000.00

(k) *New Lands and Buildings.* For extraordinary recurring expenses and capital outlay, and for ordinary recurring expenses in the restoration, repairing, replacement, equipment, maintenance, and improvements of State property $600,000.00

(There is also hereby appropriated for capital outlay, restoration, repairing, replacement, equipment, maintenance and improvement of state property, any and all monies, not otherwise appropriated or obligated, that have been and that may be received from the Federal Government or any Federal agency, as a reimbursement on the New Land and Building Program known as Kentucky PWA Docket No. 1269D, Construction Fund, and/or from any other Federal funds received or which may be received, which may be made applicable for use for said purposes or any of them.)

10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring expenses of the various Divisions of the Department of Revenue, including the Division of Alcoholic Control, ... $362,000.00

11. DEPARTMENT OF REVENUE, MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expenses of operation $307,000.00

(b) *County Boards of Supervisors.* For ordinary recurring expenses of operation $27,000.00

12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary recurring expenses of operation $6,500.00

(b) *Division of State Parks.* For ordinary recurring expenses of operation $41,000.00

(b1) (Of this amount $10,000.00 shall be earmarked to

be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of Old Kentucky Home.)

(b2) (Of this amount $6,000.00 shall be used for the purpose of restoration of Constitutional Hall in Danville, Kentucky, and may be used to match Federal Funds which may be available and may be combined with a like appropriation for the fiscal year ending June 30, 1942, and for contractural purposes be obligated, but the appropriation for the fiscal year of 1941-1942 shall not be actually disbursed until after June 1, 1941.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation $14,000.00

(d) *Division of Publicity.* For ordinary recurring expenses of operation $20,000.00

13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation $30,000.00

(b) *Veterans' Division.* For ordinary recurring expenses of operation $18,000.00

(c) *Division of Armories.* For ordinary recurring expenses of operation $42,000.00

14. DEPARTMENT OF AGRICULTURE

(a) *Division of Agriculture.* For ordinary recurring expenses of operation $37,500.00

(Of this amount each item shall not exceed the amounts specified below):

(a1) Salaries of Division of Agriculture $10,500.00

(a2) Office and traveling expenses of the Division of Agriculture $5,000.00

(a3) Inspection of Tobacco Warehouses $6,000.00

(It is the intention of the Legislature that the appropriation for inspection of tobacco warehouses shall be expended

during the period that tobacco sales are held at the various tobacco warehouses throughout the State, and no part of this sum may be expended for any period which is longer than one week prior to the beginning date of the first tobacco sale or two weeks after the closing date of the last tobacco sale at each of the various tobacco warehouses throughout the State.)

(a4) *Division of Markets.* For ordinary recurring expenses of operation $15,000.00

(a5) *Farm Tenancy Commission.* For actual traveling expenses of Commission members $1,000.00

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law $43,550.00

(Of this amount each item shall not exceed the amounts specified below):

(b1) Expenses and per diem of Board Members $1,050.00

(b2) Expenses of Live Stock Sanitary Board $20,000.00

(b3) Diseases of Live Stock $1,500.00

(b4) Bang's Disease $21,000.00

(c) *State Fair Board.* For ordinary recurring expenses of operation $139,250.00

(Of this amount each item shall not exceed the amounts specified below):

(c1) For per diem and expenses of Board Members $1,250.00

(c2) Operation of Kentucky State Fair $80,000.00

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary current operation expense of the Fair for the period covering the week of the Fair.)

(c3) Premiums for Kentucky State Fair $45,000.00

(c4) Retiring a part of the M. & M. Building bonded indebtedness maturing November 1, 1940 ..... $8,000.00

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)

(c5) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky products paid to Kentuckians $5,000.00

15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation $150,000.00

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation $2,500.00

(c) *Laboratories.* For ordinary recurring expenses of operation $5,000.00

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation $244,500.00

(e) *Visiting Nurses.* For ordinary recurring expenses of operation $6,000.00

(f) *Hazelwood Sanitorium.* For ordinary recurring expenses of operation $88,000.00

(g) *Interest on Bonds.* For extraordinary expenses of interest on Hazelwood Sanitorium bonds, ... $5,967.50

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation $90,000.00

16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions, Kentucky Children's Home (White and Colored, administration and supervision of enrollees from the various counties to the C. C. C. camps sponsored by the Federal Government, and the administration of the Department of Welfare, including probation and parole, ... $2,290,000.00

(b) *Home for Incurables.* For ordinary recurring expenses of operation $15,000.00

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare $4,000.00

(d) *Division of Public Assistance.* For ordinary expenses of operation and cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance, Chapter 94, 1936 Regular Session, and cooperation with Child Welfare and Aid to the Blind Programs $4,000,000.00

(e) *Emergency Relief.* For extraordinary expenses which constitute special emergencies and/or for relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State. Said fund to be administered and expended by the Governor of the Commonwealth $200,000.00

(f) *Conveyance of Lunatics.* For ordinary recurring expenses of operation $9,000.00

(g) *Pauper Idiots.* For ordinary recurring expenses of operation $73,000.00

(h) *Julius Marx Sanitorium.* For ordinary recurring expenses of operation as provided for in Section 2061-a-28, Kentucky Statutes $10,000.00

(i) *Covington, Kenton County, T. B. Sanitorium.*—For ordinary recurring expenses of operation $7,500.00

17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction.* For ordinary recurring expenses of operation $60,000.00

(b) *Division of Certification.* For ordinary recurring expenses of operation $15,000.00

(c) *State Board of Education.* For ordinary recurring expenses of operation $15,000.00

(d) *State Textbook Commission.* For ordinary recurring expenses of operation $500.00

(e) *Common School Per Capita Fund.* For the payment of teachers' salaries and other expenses incidental to the operation and maintenance of the public schools of the State $9,461,061.84

(f) For interest on State School Bonds, as provided by the Constitution for the support of Common Schools, which amount shall be used to supplement the appropriation for Common School Per Capita $138,938.16

(g) *Free Textbooks.* For the purchase of textbooks as provided for in Chapter 48, Acts 1928 ..... $500,000.00

(h) *War Orphan Scholarship Fund.* For the purpose of carrying out the provisions of Sections 4376b-11 and 4527-31, Kentucky Statutes $1,400.00

(i) *Vocational Education.* For ordinary recurring expenses of operation under the provisions of existing laws $40,000.00

(j) *Vocational Rehabilitation.* For ordinary recurring expenses of operation in rehabilitating persons disabled in industry or otherwise $21,380.55

(k) *Kentucky State Industial College.* For ordinary recurring expenses of operation for negroes $110,000.00

(l) *West Kentucky Vocational Training School.* For ordinary recurring expenses of operation for negroes $40,000.00

(m) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the state to obtain higher educational training $8,000.00

(n) *Kentucky School for the Blind. White.* For ordinary recurring expenses of operation $61,500.00

(o) *Kentucky School for the Blind. Colored.* For ordinary recurring expenses of operation $7,000.00

(p) *Kentucky School for the Blind—Workshop for the Adult Blind.* For ordinary recurring expenses of operation $14,800.00

(q) *Kentucky School for the Deaf. White.* For ordinary recurring expenses of operation $115,000.00

(r) *Kentucky School for the Deaf. Colored.* For ordinary recurring expenses of operation $8,500.00

(s) *Mayo Vocational Training School.* For ordinary recurring expenses of operation for white people $25,000.00

18. TEACHER RETIREMENT FUND BOARD

(a) *Teacher Retirement Fund.* Establishing a fund for administering and complying with the obligations of the State under the Teacher Retirement Act, Chapter 1 of the Acts of the General Assembly of 1938, First Special Session, or said Act as amended or superseded, an amount equal to the total money paid into the State Treasury during the fiscal year beginning July 1, 1940, and ending June 30, 1941, by teachers participating under the provisions of said Act, but not to exceed $500,000.00

19. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expenses of operation $818,000.00

(a1) For extraordinary expenses and capital outlay $82,000.00

(Of this amount each item shall not exceed the amounts specified below):

Repairs to Buildings $12,000.00
Library Equipment $10,000.00
Scientific Laboratory Equipment $20,000.00
Engineering Equipment $25,000.00
Home Economics Equipment $15,000.00

(b) *College of Agriculture.* For ordinary recurring expenses of operation $24,000.00

(c) *Summer School Session.* For ordinary recurring expenses of operation $10,000.00

(d) *Experiment Station.* For ordinary recurring expenses of operation $55,500.00

(Of this amount the sum of $7,500.00 shall be used for the purpose of research and experimental purposes in an effort to find new commercial uses for tobacco and its by-products.)

(e) *Service Laboratories.* For ordinary recurring expenses of operation $21,000.00

(f) *Nursery Inspection.* For ordinary recurring expenses of operation $2,000.00

(g) *Princeton Sub-Station.* For ordinary recurring expenses of operation $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-station herein mentioned.)

(h) *Quicksand Sub-Station.* For ordinary recurring expenses of operation $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-Stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-stations herein mentioned.)

(i) *Agricultural Extension Work.* For ordinary recurring expenses of operation $130,000.00

20. STATE TEACHERS' COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expenses of operation $265,000.00

(b) *Morehead State Teachers College.* For ordinary and extraordinary recurring expenses of operation $219,000.00

(c) *Murray State Teachers College.* For ordinary recurring expenses of operation $239,000.00

(d) *Western Kentucky State Teachers College.* For ordinary recurring expenses of operation $360,000.00

(Of this sum $5,000.00 shall be used for the erecting and equipping of a refrigeration plant; and of this sum $5,000.00 shall be used for capital outlay in completing the heating plant.)

21. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian.* For ordinary recurring expenses of operation $9,000.00

(b) *Law Library—Books.* For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes $3,500.00

(c) *Library Sales Account—Kentucky Reports.* For ordinary and extraordinary recurring expenses of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided by law $10,000.00

(d) *Distribution and Repair of Books.* For ordinary recurring expenses of operation $500.00

(e) *Division of Library Extension.* For ordinary recurring expenses of operation $11,000.00

(f) *Kentucky State Historical Society.* For ordinary recurring expenses of operation $7,715.00

22. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation $6,500.00

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation $45,000.00

(c) *Division of Insurance.* For ordinary recurring expenses of operation $45,000.00

(d) *Division of Securities.* For ordinary recurring expenses of operation $7,500.00

23. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation $9,000.00

(b) *Kentucky State Employment Service.* For ordinary recurring expenses of operation $60,000.00

(c) *Division of Wage, Hours for Women and Minors.* For ordinary recurring expenses of operation $10,000.00

(d) *Division of Labor and Statistics.* For ordinary recurring expenses of operation $16,000.00

24. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation $25,000.00

(b) *Division of Geology.* For ordinary recurring expenses of operation $12,000.00

(There is hereby appropriated to this division all fees and collections for the purpose of establishing a revolving fund.)

25. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance $50,000.00

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by law to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State $2,500.00

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General $10,000.00

(d) *Interest on Land Grant Bonds.* For payment of interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes $9,900.00

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery to be paid to persons authorized by law to receive same $250.00

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes $3,000.00

(g) *Interest on Non-Resident Tax Deposits* $125.00

(h) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance $450,000.00

(i) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance $85,000.00

(j) *County Highway Patrol.* For the purpose of paying sheriffs of the various counties for performing duties as required by law $60,000.00

PART TWO

26. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* There shall be established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1940; and ending March 31, 1941, a state road fund; and there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues, authorized now by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenues shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1941, not otherwise appropriated in this Act, for use and benefit of the State Road System in construction, maintenance, and repair of roads, and for all the activities and duties of said Department, as prescribed by law.

(b) *Divisions of Administration, Records, Equipment, Maintenance, and Construction.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941 for ordinary recurring administrative expenses of operation, the sum of.....$600,000.00

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941 to be used by the Division of Rural Highways for the improvement, reconstruction and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for main-

tenance, said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936.....$2,000,000.00

(Of this amount, not more than 10 per cent may be used for Administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Office Building.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941, for the extraordinary expense and capital outlay in partially completing the erection of a State office building in which the State Department of Highways and its divisions will be housed $175,000.00

(e) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941, for the ordinary recurring expenses of operation of the Highway Patrol, as provided by law $300,000.00

27. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1941, for ordinary recurring expenses of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels...$130,000.00

28. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Fund for the fiscal year ending June 30, 1941 for the use of the Department of Business Regulations, Division of Motor Transportation, for ordinary recurring expenses of operation $60,000.00

29. COUNTY AID REVOLVING FUND

(a) *County Aid.* There is hereby established a revolving fund for the purposes of carrying out the provisions of Chapter 31, Acts General Assembly, First Special Session 1938 ..... $500,000.00

PART THREE

REVOLVING, TRUST AND AGENCY FUNDS.

There is hereby appropriated to the various professional boards or other boards, commissions, institutions, agencies or subdivisions of the State Government for the fiscal year ending June 30, 1941, all of the fees (which include fees for board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards, or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use and benefit of each of the below-named professional boards, or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the respective professional boards, or other boards, commissions, institutions, agencies or subdivisions of the State Government; which receipts are placed to the credit of a Revolving Fund (Minor Fund) out of which shall be established separate Revolving Fund Accounts for the use and benefit of each separate professional Board or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts received from the separate professional board or other boards, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional Board or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolv-

ing Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation properly approved by the Department of Finance, Division of Accounts and Control, and said requisitions shall not be approved unless there is to the credit of the Revolving Fund of such professional Board, or other board, commission, institution, agency and/or subdivision of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any agency may requisition from the Rvolving Fund Account through the Department of Finance, shall not during the fiscal year ending June 30, 1941, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account for each separate agency during the fiscal year July 1, 1940 to June 30, 1941, inclusive, plus any balance which said professional board, or other board, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.

DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

AUDITOR OF PUBLIC ACCOUNTS—

County share of cost of audits.

DEPARTMENT OF FINANCE—

Duplicating Section.

Truck Licenses—County portion. There shall be credited to this fund for the purpose of distribution to counties from such portion of truck licenses as is not provided by law, at such times as the Department of Finance may order.

DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as are specifically provided for under Section 2739M-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees and revenues as provided for by Section 4257a-5, Kentucky Statutes.

Revenue Agents

COMMISSIONER OF AGRICULTURE—

Dog Law

DEPARTMENT OF CONSERVATION—

Division of State Parks
Division of Forestry (Federal)
Division of Game and Fish Commission
Division of Publicity

DEPARTMENT OF HEALTH—

Department of Health—General and Federal
Hazelwood Sanitorium
Office purchase fund which may be received from other funds.
Kentucky Crippled Children's Commission

DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene
Division of Corrections
Division of Child Welfare
Division of Public Assistance
Metal Stamping Plant
Welfare Construction Fund

DEPARTMENT OF EDUCATION—
Division of General Education Board
Jeannes Fund
Rosenwald Fund
Slater Fund
George-Deen Fund
Smith Hughes Fund
Vocational Rehabilitation—Federal
Vocational Rehabilitation—Private
Kentucky State Industrial College
West Kentucky Vocational Training School
Mayo Vocational Training School
State Board of Education—Investment Fund
Kentucky School for the Deaf
Workshop for the Adult Blind
University of Kentucky
Eastern Kentucky State Teachers College
Morehead State Teachers College
Murray State Teachers College
Western Kentucky State Teachers College
Lincoln Institute

TEACHER RETIREMENT FUND BOARD—
Teacher Retirement Fund.

DEPARTMENT OF LIBRARY AND ARCHIVES—
Kentucky Historical Society
Library Extension Division
Stephenson Fund
State Board of Certification of Librarians

DEPARTMENT OF BUSINESS REGULATIONS—
Division of Professional Regulations

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Pro-

fessional Regulations in the Department of Business Regulations shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department of Business Regulations. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy
State Board of Examiners and Registration of Architects

State Board of Barber and Beautician Examiners
State Board of Chiropractic Examiners
State Board of Dental Examiners
State Board of Embalmers
State Board of Pharmacy
State Board of Examiners of Trained Nurses
State Board of Veterinary Examiners
State Board of Bar Examiners
Insurance Examiners Expense
State Board of Professional Engineers
Division of Motor Transportation
Division of Insurance, Fire Prevention and Rates Section

All fees, receipts, collections and assesments paid into the State Treasury on and after January 1, 1940 under Section 762b-5, Kentucky Statutes, are hereby appropriated to the Division of Insurance, Fire Prevention and Rates Section, and may be used during the fiscal year ending June 30, 1940, and the unexpended balance remaining on June 30, 1940, and all collections made under said section from June 30, 1940 to December 31, 1940 are hereby appropriated for the fiscal year ending June 30, 1941; also, for the fiscal year ending June 30, 1941, an amount equal to twenty-five per cent of all fees and other receipts paid into the State Treasury from December 31, 1939 to December 31, 1940, under and pursuant

to the provisions of Section 761, Kentucky Statutes is hereby appropriated to the Division of Insurance, Fire Prevention and Rates Section for the fiscal year ending June 30, 1941.

DEPARTMENT OF MINES AND MINERALS—
Division of Geology
Division of Coal Mining

PUBLIC SERVICE COMMISSION—

Out of the fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, and Chapter 13, First Special Session, 1938, a sum of $130,000.00 for the fiscal year ending June 30, 1941, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the Commission to perform all of the functions and duties of the said Commission as provided by law.

KENTUCKY REAL ESTATE BOARD—

DEPARTMENT OF INDUSTRIAL RELATIONS—
Division of Unemployment Compensation—Federal
Kentucky State Employment Service

JEFFERSON COUNTY MASTER COMMISSIONERS—

NOT OTHERWISE CLASSIFIED—
Truck License Refunds

EMERGENCY APPROPRIATION

There is hereby made a special emergency appropriation out of the General Fund for ordinary, recurring expenses of operation and of extraordinary expenses for the period from December 15, 1939, to June 30, 1940, for the purpose of pay-

ing the State's proportionate part of the cost incidental to the receiving and distribution of surplus food commodities from the Federal Government to persons eligible to receive relief food in the State of Kentucky and for other purposes deemed emergencies by the Governor of the Commonwealth, said fund to be administered by the Governor.....$80,000.00

FISCAL YEAR 1941-1942

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1941, and ending June 30, 1942, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of county record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees, and any and all other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which these specific appropriations are herein listed, excepting those listed in Parts One-A and Two-A, for the following purposes:

PART ONE-A

1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation $170,000.00

(b) *Legislative Council.* For ordinary recurring expenses of operation $5,000.00

(c) *The Council of State Governments.* For aiding in defraying the expenses of this Agency $250.00

(d) *Board of Election Commissioners.* For ordinary recurring expenses of operation $500.00

(e) *Board of Registration and Purgation.* For ordinary recurring expenses of operation $1,000.00

(f) *Railroad Commission.* For ordinary recurring expenses of operation $20,000.00

2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation $1,000.00

3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals.* For ordinary recurring expense of operation $34,000.00

(b) *Clerk of Court of Appeals.* For ordinary recurring expense of operation $16,000.00

(c) *Judicial Council.* For ordinary recurring expense of operation $800.00

(d) *Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, Commissioners on Fines and Forfeitures.* For ordinary recurring expense of operation of the laws applicable to Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures $1,358,500.00

(e) *Salaries of Judges and Commonwealth Attorneys.* For ordinary recurring expense of operation $278,000.00

(f) *Return of Escaped Convicts.* For ordinary recurring expense of operation for paying for returning escaped convicts authorized by the Governor, which have not been previously paid $6,000.00

(g) *Rewards.* For payment of rewards authorized by the Governor of the Commonwealth $300.00

4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expense of operation $20,750.00

(b) *Executive Cabinet.* For ordinary recurring expense of operation $4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent expenses of operation $6,000.00

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies

by the Governor of the Commonwealth to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund.....$200,000.00

5. DEPARTMENT OF STATE

(a) *Secretary of State.* For ordinary recurring expense of operation $19,300.00

(b) *Land Office.* For ordinary recurring expense of operation $1,200.00

6. DEPARTMENT OF LAW

(a) *Attorney General.* For ordinary recurring expense of operation $40,000.00

(b) *Cost of Suits.* For extraordinary expense of operation, and paying clerks, sheriffs, public officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to the approval of the Department of Finance, ... $6,000.00

(c) *Statute Revision Commission.* For ordinary recurring expense of operation and extraordinary expenses deemed necessary by the Commission and approved by the Commissioner of Finance $18,000.00

7. DEPARTMENT OF TREASURY

(a) *State Treasurer.* For ordinary recurring expense of operation $31,000.00

(Of this amount no sum shall be used for printing checks used by the State Highway Department, and for paying recipients of Old Age Assistance. These costs shall be borne by the respective departments.)

(b) *Custodian of Securities.* For ordinary recurring expense of operation $600.00

8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts.* For ordinary recurring expense of operation $35,000.00

(There is hereby appropriated to the Auditor of Public Accounts, for the use and benefit of said office, all of the fees that may be collected for the fiscal year.)

9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioncr, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and Control, and Division of Purchases.* For ordinary recurring expenses of operation of the various divisions within the Department of Finance, and the administration of Confederate Pensions, and Public Printing $153,737.00

(b) *Division of Properties.* For custodial care of public properties and for ordinary recurring expenses of operation $125,000.00

(c) *Public Printing Costs.* (*Contractual Services.*) For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units $16,000.00

(d) *Public Record Books. Paper and Printing.* For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year ending June 30, 1942 ..... $20,925.00

(e) *Registration Books and Supplies.* For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936, Regular Session $500.00

(f) *Paper for Election Ballots and General Assembly.* For ordinary recurring expenses in furnishing paper for ballots for State elections and General Assembly as required by law $8,000.00

(g) *Paper (Revolving Fund).* To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units $20,000.00

(h) *Postage (Revolving Fund).* To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units $10,000.00

(i) *Confederate Pensions.* For ordinary recurring expenses in paying pensions now provided for by law $160,000.00

(j) *Interest on Warrants.* For ordinary recurring expense of interest due on outstanding interest-bearing warrants against the Commonwealth $150,000.00

(k) *New Lands and Buildings.* For extraordinary recurring expenses and capital outlay, and for ordinary recurring expenses in the restoration, repairing, replacement, equipment, maintenance, and improvements of State property $600,000.00

(There is also hereby appropriated for capital outlay, restoration, repairing, replacement, equipment, maintenance and improvement of state property, any and all monies, not otherwise appropriated or obligated, that have been and that may be received from the Federal Government or any Federal agency, as a reimbursement on the New Land and Building Program known as Kentucky PWA Docket No. 1269D, Construction Fund, and/or from any other Federal funds received or which may be received, which may be made applicable for use for said purposes or any of them.)

10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring expense of various divisions of the Department of Revenue, including the Division of Alcoholic Control $362,000.00

11. DEPARTMENT OF REVENUE
MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expense of operation $307,000.00

(b) *County Boards of Supervisors.* For ordinary recurring expense of operation $27,000.00

12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary and recurring expense of operation $6,500.00

(b) *Division of State Parks.* For ordinary recurring expense of operation $41,000.00

(b1) Of this sum $10,000.00 shall be ear-marked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of the Old Kentucky Home.)

(b2) Of this amount $6,000.00 shall be used for the purpose of the restoration of Constitutional Hall in Danville, Kentucky, and may be used to match Federal Funds which may be available and may be combined with a like appropriation for the fiscal year ending June 30, 1941 and, for contractual purposes, be obligated, but the appropriation for the fiscal year ending June 30, 1942 shall not actually be disbursed until after the beginning of the fiscal year July 1, 1941.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation $14,000.00

(d) *Division of Publicity.* For ordinary recurring expenses of operation $20,000.00

13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation $30,000.00

(b) *Veterans' Division.* For ordinary recurring expenses of operation $18,000.00

(c) *Division of Armories.* For ordinary recurring expenses of operation $42,000.00

14. DEPARTMENT OF AGRICULTURE

(a) *Division of Agriculture.* For ordinary recurring expenses of operation $37,500.00

(Of this amount each item shall not exceed the amounts specified below):

(a1) Salaries of Division of Agriculture $10,500.00

(a2) Office and travelling expenses of Division of Agriculture $5,000.00

(a3) Inspection of Tobacco Warehouses $6,000.00

(It is the intention of the Legislature that the appropriation for inspection of tobacco warehouses shall be expended during the period that tobacco sales are held at the various tobacco warehouses throughout the State, and no part of this sum may be expended for any period which is longer than one week prior to the beginning date of the first tobacco sale and two weeks after the closing date of the last tobacco sale at each of the various tobacco warehouses throughout the State.)

(a4) Division of Market—For ordinary recurring expenses of operation $15,000.00

(a5) Farm Tenancy Commission—For actual travelling expenses of Board Members $1,000.00

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law $43,550.00

(Of this amount each item shall not exceed the amount specified below:)

(b1) Expenses and per diem of Board Members $1,050.00

(b2) Expenses of Live Stock Sanitary Board $20,000.00

(b3) Diseases of Live Stock $1,500.00

(b4) Bang's Disease $21,000.00

(c) *State Fair Board.* For ordinary recurring expenses of operation $145,250.00

(Of this amount each item shall not exceed the amount specified below:)

(c1) For per diem and expenses of Board Members $1,250.00

(c2) Operation of Kentucky State Fair $80,000.00

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the neces-

sary current operating expense of the Fair for the period covering the week of the Fair.)

(c3) Premiums for Kentucky State Fair $45,000.00

(c4) Retiring a part of the M. & M. Building bonded indebtedness maturing November 1, 1941 ..... $14,000.00

(c5) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky Products paid to Kentuckians $5,000.00

15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation $150,000.00

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation $2,500.00

(c) *Laboratories.* For ordinary recurring expenses of operation $5,000.00

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation $244,500.00

(e) *Visiting Nurses.* For ordinary recurring expenses of operation $6,000.00

(f) *Hazelwood Sanitorium.* For ordinary recurring expenses of operation $88,000.00

(g) *Interest on Bonds.* For extraordinary expense of interest on Hazelwood Sanitorium Bonds $5,705.00

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation $90,000.00

16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions, Kentucky Children's Home, White and Colored, administration and supervision of enrollees from the various counties into the C.C.C. camps sponsored by the Federal Government,

and the administration of the Department of Welfare, including probation and parole, ... $2,310,000.00

(b) *Home for Incurables.* For ordinary recurring expenses of operation, ... $15,000.00

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, ... $4,000.00

(d) *Division of Public Assistance.* For ordinary recurring expenses of operation, and in cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance under House Bill No. 427, 1936 Regular Session, and in cooperation with Child Welfare, and Aid to the Blind programs, ... $4,000,000.00

(e) *Emergency Relief.* For extraordinary expenses which constitute special emergencies and/or for the relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State, said fund to be administered and expended by the Governor of the Commonwealth, ... $200,000.00

(f) *Conveyance of Lunatics.* For ordinary recurring expenses of operation, ... $9,000.00

(g) *Pauper Idiots.* For ordinary recurring expenses of operation, ... $73,000.00

(h) *Julius Marx Sanitorium.* For ordinary recurring expenses of operation as provided for in Section 2061a-28, Kentucky Statutes, ... $10,000.00

(i) *Covington, Kenton County, T. B. Sanitorium.* For ordinary recurring expenses of operation, ... $7,500.00

17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction.* For ordinary recurring expenses of operation, ... $60,000.00

(b) *Division of Certification.* For ordinary recurring expenses of operation, ... $15,000.00

(c) *State Board of Education.* For ordinary recurring expenses of operation, ... $15,000.00

(d) *State Text-Book Commission.* For ordinary recurring expenses of operation, ... $500.00

(e) *Common School Per Capita Fund.* For payment of teachers' salaries, and other expense incidental to the operation and maintenance of the public schools of the State, ... $9,561,061.84

(f) *Interest on State School Bonds.* For payment as provided by the Constitution for the support of the Common Schools, which amount shall be used to supplement the appropriation for common school per capita, ... $138,938.16

(g) *Free Text Books.* For purchase of text books as provided in Chapter 49, Acts of 1928, ... $500,000.00

(h) *War Orphan Scholarship Fund.* For the purpose of carrying out the provision of Sections 4376b-11, and 4527-31, Kentucky Statutes, ... $1,400.00

(i) *Vocational Education.* For ordinary recurring expenses of operation under the provision of existing laws $40,000.00

(j) *Vocational Rehabilitation.* For ordinary recurring expenses of operation in rehabilitating persons disabled in industry, or otherwise, ... $21,380.55

(k) *Kentucky State Industrial College.* For ordinary recurring expense of operation for negroes, ... $110,000.00

(l) *West Kentucky Vocational Training School.* For ordinary recurring expense of operation for negroes, ... $40,000.00

(m) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher educational training, ... $9,000.00

(n) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation, ... $61,500.00

(o) *Kentucky School for the Blind—Colored.* For ordinary recurring expense of operation, ... $7,000.00

(p) *Kentucky School for the Blind—Work Shop for Adult Blind.* For ordinary recurring expense of operation $14,800.00

(q) *Kentucky School for the Deaf—White.* For ordinary recurring expense of operation, ... $115,000.00

(r) *Kentucky School for the Deaf—Colored.* For ordinary recurring expense of operation, ... $8,500.00

(s) *Mayo Vocational Training School.* For ordinary recurring expense of operation for white people..... $25,000.00

18. TEACHER RETIREMENT FUND BOARD

(a) *Teacher Retirement Fund.* Establishing a fund for administering and complying with the obligations of the State under the Teacher Retirement Act, Chapter 1 of the Acts of the General Assembly of 1938, First Special Session, or said Act as amended or superseded, an amount equal to the total money paid into the State Treasury during the fiscal year beginning July 1, 1941 and ending June 30, 1942, by teachers participating under the provisions of said Act, but not to exceed $500,000.00

19. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expense of operation, ... $818,000.00

(a1) For extraordinary expense of capital outlay,..... $67,000.00

(Of this amount each item shall not exceed the amount specified below:)

Repairs for Building $12,000.00
Library Equipment $10,000.00
Scientific Laboratory Equipment $20,000.00
Engineering Equipment $25,000.00

(b) *College of Agriculture.* For ordinary recurring expense of operation, ... $24,000.00

(c) *Summer School.* For ordinary recurring expense of operation, ... $10,000.00

(d) *Experiment Station.* For ordinary recurring expense of operation, ... $55,500.00

(Of this amount the sum of $7,500.00 shall be used for the purpose of research and experimental purposes in an effort to find new commercial uses for tobacco and its by-products.)

(e) *Service Laboratory.* For ordinary recurring expense of operation, ... $21,000.00

(f) *Nursery Inspection.* For ordinary recurring expense of operation, ... $2,000.00

(g) *Princeton Sub-Station.* For ordinary recurring expense of operation, ... $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-Stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-stations herein mentioned.

(h) *Quicksand Sub-Station.* For ordinary recurring expense of operation, ... $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-Stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-stations herein mentioned.)

(i) *Agriculture Extension Work.* For ordinary recurring expense of operation, ... $130,000.00

20. STATE TEACHERS COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expense of operation, ... $265,000.00

(b) *Morehead State Teachers College.* For ordinary and extraordinary recurring expenses of operation $219,000.00

(c) *Murray State Teachers College.* For ordinary recurring expenses of operation, ... $239,000.00

(d) *Western Kentucky State Teachers College.* For ordinary recurring expenses of operation, ... $360,000.00

(Of this sum $5,000.00 shall be used for the erecting and equipping of a refrigeration plant; and of this sum $5,000.00 shall be used for capital outlay in completing the heating plant.)

21. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian.* For ordinary recurring expenses of operation, ... $9,000.00

(b) *Law Library—Books.* For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes, ... $3,500.00

(c) *Library Sales Account—Kentucky Reports.* For ordinary and extraordinary expense of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided by law, ... $10,000.00

(d) *Distribution and Repair of Books.* For ordinary recurring expenses of operation, ... $500.00

(e) *Division of Library Extension.* For ordinary recurring expenses of operation, ... $11,000.00

(f) *Kentucky State Historical Society.* For ordinary recurring expenses of operation, ... $7,715.00

22. DEPARTMENT OF BUSINESS REGULATION

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation, ... $6,500.00

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation, ... $45,000.00

(c) *Division of Insurance.* For ordinary recurring expenses of operation, ... $45,000.00

(d) *Division of Securities.* For ordinary recurring expenses of operation, ... $7,500.00

23. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation, ... $9,000.00

(b) *Kentucky State Employment Service.* For ordinary recurring expenses of operation, ... $60,000.00

(c) *Division of Wage Hours for Women and Minors.* For ordinary recurring expenses of operation, ... $10,000.00

(d) *Division of Labor and Statistics.* For ordinary recurring expenses of operation, ... $16,000.00

24. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation, ... $25,000.00

(b) *Division of Geology.* For ordinary recurring expenses of operation, ... $12,000.00

25. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance, ... $50,000.00

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by Statutes to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State, ... $2,500.00

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General, ... $10,000.00

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes, ... $9,900.00

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery and to be paid to persons authorized by law to receive same, ... $250.00

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes $3,000.00

(g) *Interest on non-resident tax Deposits* $125.00

(h) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, ... $450,000.00

(i) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in form and manner prescribed by law and approved by the Commissioner of Finance, ... $85,000.00

(j) *County Highway Patrol.* For the purpose of paying sheriffs of the various counties for performing duties as required by law, ... $60,000.00

PART TWO-A

26. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* There shall be established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1941 and ending March 31, 1942, a State Road Fund; and there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues, now authorized by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the tax on other Motor Fuels, now collected by law, or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department, all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1942, not otherwise appropriated in this Act, for the use and benefit of the State road system in construction, maintenance and repair of roads, and for all the activities and duties of said Department, as prescribed by law.

(b) *Divisions of Records, Administration, Equipment, Maintenance, and Construction.* There is hereby appropriated out of the State Highway Fund for the Fiscal year ending March 31, 1942, for ordinary recurring administrative expense of operation $600,000.00

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1942, to be used by the Division of Rural Highways for the improvement, reconstruction, and

maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936 ..... $2,000,000.00

(Of this amount, not more than 10 per cent may be used for Administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1942, for ordinary recurring expenses of operation of the Highway Patrol, as provided by law..... $300,000.00

27. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax* and *Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1942, for the ordinary recurring expense of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels..$130,000.00

28. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Road Fund for the Fiscal Year ending June 30, 1942, for the use of the Department of Business Regulation, Division of Motor Transportation, for ordinary recurring expenses of operation $60,000.00

29. COUNTY AID REVOLVING FUND

(a) *County Aid.* There is hereby established a revolving fund for the purpose of carrying out the provisions of Chapter 31, Acts of the General Assembly, First Special Session, 1938 ..... $500,000.00

PART THREE-A

REVOLVING, TRUST AND AGENCY FUNDS

There is hereby appropriated to the various professional boards, or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1942, all of the fees (which include fees from board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards or other boards, commissions, institutions, agencies and subdivisions of the State government, for the use and benefit of each of the below-named professional boards or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the respective professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government; which receipts are placed to the credit of the Revolving Fund (Minor Funds) out of which shall be established a Revolving Fund Account for the use and benefit of each separate professional board or other boards, commissions, institutions, agencies and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts, from a separate professional board, or other board, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional board, or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisi-

tions shall not be approved unless there is to the credit of the Revolving Fund Account of such professional board, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any one professional board or other boards, commission, institution, agency, and/or subdivision of the State Government may requisition from the Revolving Fund Account through the Department of Finance shall not during the fiscal year ending June 30, 1942, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account, during the fiscal year July 1, 1941, to June 30, 1942, inclusive, plus any balance which said professional board, or other boards, commission, institution, agency, and/or subdivision of the State Government may have transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.

DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

AUDITOR OF PUBLIC ACCOUNTS—

County share of cost of audits.

DEPARTMENT OF FINANCE—

Duplicating Section.

Truck Licenses—County portion. There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is now provided by law as ordered by the Department of Finance distributed.

DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as specifically provided for under Section 2739m-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees and revenues as provided for by Section 4257a-5, Kentucky Statutes.

Revenue Agents.

COMMISSIONER OF AGRICULTURE—

Dog Law.

DEPARTMENT OF CONSERVATION—

Division of State Parks.
Division of Forestry (Federal).
Division of Game and Fish Commission.
Division of Publicity.

DEPARTMENT OF HEALTH—

Department of Health—General and Federal.
Hazelwood Sanitorium.
Office purchase fund which may be received from other funds.
Kentucky Crippled Children's Commission.

DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene.
Division of Corrections.
Division of Child Welfare.
Division of Public Assistance.
Metal Stamping Plant.
Welfare Construction Fund.

DEPARTMENT OF EDUCATION—

Division of General Education Board.
Jeannes Fund.
Rosenwald Fund.
Slater Fund.
George-Deen Fund.

Smith-Hughes Fund.
Vocational Rehabilitation—Federal.
Vocational Rehabilitation—Private.
Kentucky State Industrial College.
State Board of Embalmers.
State Board of Pharmacy.
State Board of Veterinary Examiners.
State Board of Examiners of Trained Nurses.
State Board of Bar Examiners.
Insurance Examiners Expense.
State Board of Professional Engineers.
Division of Motor Transportation.
Division of Insurance—Fire Prevention and Rates Section.

All fees, receipts, collections and assessments paid into the State Treasury from December 31, 1940, to December 31, 1941, under section 762-b-5, Kentucky Statutes, and also an amount equal to twenty-five per cent of all fees and other receipts paid into the State Treasury from December 31, 1940 to December 31, 1941, pursuant to the provisions of Section 761, Kentucky Statutes, hereby is appropriated to the Division of Insurance, Fire Prevention and Rates Section, for the fiscal year ending June 30, 1942.

DEPARTMENT OF MINES AND MINERALS—
Division of Geology.
Division of Coal Mining.

PUBLIC SERVICE COMMISSION—

Out of the fees collected by the Public Service Commission, as provided by Chapter 145, Regular Session of the 1934 General Assembly, and Chapter 13, First Special Session, 1938, a sum of $130,000.00 for the fiscal year ending June 30, 1942, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary,

and other ordinary recurring expenses necessary to enable the Commission to perform all of the function and duties of said Commission as provided by law.

KENTUCKY REAL ESTATE BOARD.

DEPARTMENT OF INDUSTRIAL RELATIONS—
Division of Unemployment Compensation—Federal.
Kentucky State Employment Service.

JEFFERSON COUNTY MASTER COMMISSIONERS.

NOT OTHERWISE CLASSIFIED—
Truck License Refunds.

The following sections 30, 31, 32, 33, 34, 35 and 36 are enacted and apply to Parts One, Two and Three of the appropriations for the fiscal year ending June 30, 1941, and apply to Parts One-A, Two-A and Three-A of the appropriations for the fiscal year ending June 30, 1942.

30.

All receipts, fees, and/or revenue, regardless of whether heretofore specified in this Act, of every department, board, commission, institution, agency, division, or subdivision of the State Government shall be covered into the State Treasury immediately after the close of each month through the Department of Finance and placed to the credit of the General Expenditure Fund, excepting those revenues which are specifically allocated to the State Road Fund or the Revolving Fund which shall be credited to their respective funds as provided for in this Act. The fees, receipts, and/or revenue of every officer, department, division, subdivision, commission, board, institution, or agency of the State Government shall be covered into the State Treasury immediately after the close of each month, and placed to the credit of the General

Expenditure Fund and shall be used to defray the expenses of the State Government, and the appropriations made from the General Expenditure Fund in this Act, unless otherwise specifically appropriated to one of the professional boards, commissions, institutions, agencies, or subdivisions of the State Government for Revolving Fund purposes; such agencies shall be only those that are listed in this Act as having been approved for Revolving Fund Accounts.

West Kentucky Vocational Training School
Mayo Vocational Training School
State Board of Education—Investment Fund
Kentucky School for the Deaf
Workshop for the Adult Blind
University of Kentucky
Eastern Kentucky State Teachers College
Morehead State Teachers College
Murray State Teachers College
Western Kentucky State Teachers College
Lincoln Institute

TEACHER RETIREMENT FUND BOARD—
Teacher Retirement Fund.

DEPARTMENT OF LIBRARY AND ARCHIVES—
Kentucky Historical Society
Library Extension Division
Stephenson Fund
State Board of Certification of Librarians

DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department

of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy
State Board of Examiners and Registration of Architects
State Board of Chiropractic Examiners
State Board of Dental Examiners

31.

The appropriations herein made for the ordinary recurring expenses and extraordinary expense and capital outlay for any officer, department, board, commission, institution, and subdivision of the State Government of the Commonwealth of Kentucky shall not be available for expenditure until allotted as now provided by law, and such appropriations as are specifically made in this Act are hereby declared to be maximum and conditional appropriations except when the Governor determines an emergency exists in any department, board, commission, institution, or subdivision of the State Government requiring an additional allotment of funds to be made from the General Emergency Fund hereby placed at his disposal and made a specific appropriation to be used by him to meet existing emergencies so determined by him. This appropriation is designated under Section 4 "EXECUTIVE DEPARTMENT" Item (d) Part One for the fiscal year ending June 30, 1941, and Section 4, "EXECUTIVE DEPARTMENT" Item (d) Part One-A for the fiscal year ending June 30, 1942, of this Act.

Since the actual needs of each officer, department, board, commission, institution, or subdivision of the State Government can only be anticipated and not finally determined by the Legislature, and since the total amount of revenue accruing to the General Expenditure Fund from which these appropriations are hereby made can only be anticipated through existing laws and those that may hereafter be enacted,

it is the purpose and intention of the Legislature that the State expenditures for each fiscal year covered in this Act shall not exceed the total revenues accruing to the General Expenditure Fund for the same fiscal year. As the conditions cannot be finally determined until after the adjournment of this session of the Legislature, and as the needs of each officer, department, board, commission, institution or subdivision of the State Government and the total revenues accruing to the General Fund cannot be fully determined at this time, it is the intention and the purpose of this Legislature that the Governor of the Commonwealth is, therefore, hereby authorized, empowered and directed to ascertain the needs of each officer, department, board, commission, institution, or subdivision of the State Government, and to ascertain the total revenues accruing to the General Expenditure Fund of the Commonwealth, and upon the ascertainment of said facts, he, the Governor is hereby authorized, empowered, and directed by the Legislature to prevent an over-draft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, without discrimination, the appropriations herein made to any officer, department, board, commission, institution, or subdivision of the State Government; provided that the power hereby invested and granted to the Governor shall not permit any reduction of the appropriation of any officer, department, board, commission, institution or subdivision of the State Government that will actually impair the necessary governmental functions of any agency whose operations and functions are determined to be a necessary governmental function.

32.

To carry out the purpose of this Act for the biennium beginning July 1, 1940, and ending June 30, 1942, the State Budget Officer, with the approval of the Commissioner of Finance, is hereby empowered and granted the authority to make allotments and/or reallotments from appropriations

made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, so as to prevent an over-draft, or a deficit in any fiscal year for which appropriations are herein made, and to prevent the maximum appropriation made to any officer, department, board, commission, institution, or subdivision of the State Government from being exceeded.

33.

Nothing in this Act shall be construed to repeal any appropriation for the fiscal year ending June 30, 1940, which was made under the provisions of Chapter 1, Acts of the 1938 Regular Session and of Chapter 15, Chapter 30, and Chapter 31, Acts of the General Assembly, First Special Session, 1938, and Chapter 1, Acts of the Second Special Session, 1938.

34.

In enacting this Budget Appropriation Law, it is the deliberate intention of the General Assembly to enact each section, and each sub-section thereof, as a separate and/or specific appropriation and law; and if any section or any subsection thereof shall be held invalid, or unconstitutional the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

35.

All continuing appropriations in existence at the time of this Act are hereby discontinued and repealed by this Act. All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are hereby repealed.

36.

WHEREAS, the Commonwealth has been called upon to provide funds necessary to supplement Federal funds for the purpose of carrying on the receiving and distribution of Federal surplus commodities to be distributed to the needy; and

WHEREAS, the appropriation made by the General Assembly at its 1938 Regular Session for relief of the indigent persons and other emergencies deemed by the Governor are exhausted; and

WHEREAS, it is imperative that funds be made available for the period from December 15, 1939, to June 30, 1940, for relief and other emergencies deemed as such by the Governor; and

WHEREAS, there is a need for the provisions of other sections of this budget to become operative at once, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

Ordered that said bill be printed and referred

To Committee on Appropriations No. 1.

Mr. Lee Moore moved that the House do now recess for twenty minutes.

Said motion was agreed to.

And then the House recessed.

Twenty minutes having expired, the Speaker resumed the Chair and called the House to order.

Mr. Lee Moore moved that the Rules of this House be suspended for the purpose of permitting Committee reports.

Said motion was agreed to.

Thereupon Mr. Lee Moore of the Committee on Appropriations No. 1 to which the same had been referred, reported the following resolutions and bill, viz.:

H. Res. 1. Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate and appropriating the sum of $750.00 for a contingent fund for the Clerk of the House.

H. Res. 2. Resolution providing for the purchase of "The Legislative Digest".

H. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the State Government of the Commonwealth of Kentucky, including each of the various officers, departments, boards, commissions, institutions and sub-divisions of the State Government, and the purchase of record books as provided by Sec. 388, Kentucky Statutes, 1936 Edition, judiciary and court costs, Confederate pensions, the Frankfort Cemetery, Jefferson and Kenton county fees, and for defraying the expenses of all other State obligations for (2) the fiscal years ending June 30, 1941 and June 30, 1942.

With the expression of opinion that said resolutions and bill ought to pass.

Said resolutions and bill were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Savage moved that a Committee be appointed to attend the funeral services of the Late Honorable Adolph Wells to be held at the First Christian Church in Frankfort, Kentucky.

Said motion was agreed to.

Thereupon the Speaker named as members constituting said Committee, the delegation from Jefferson county, Mr. John Hunnicutt and Mr. Ray O. Shehan.

Mr. Robinson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 4, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Stanley S. Dickson	J. B. Jarboe, Jr.
J. Everett Bach	Forest C. Easley	Chas. X. Jones
Wm. T. Beard	D. E. Edwards	John S. Juett
Rell Bevins	Harry W. Ennis	William K. King
Sterling B. Blake	Carlos Fallis	W. A. Lamkin, Jr.
Douglas T. Bolling	T. P. Fitzpatrick	Robert E. Lee
J. F. Bosworth	Cecil Florence	Harvey D. Leonard
W. S. Brim	Wayne Freeman	Edward Leslie
C. J. Bronston	Eugene Gough	W. Paul Lyon
Gus A. Brooks	Van Y. Greene	C. C. May
Haynes Carman	Ralph C. Hamilton	T. B. McConnell
Charles M. Carter	C. L. Hammons	E. Hayes McMakin
James W. Chapman	T. H. Hickey	Norris McPherson
John Coulter	Clyde S. Howard	John B. Mollette
John H. Cox	Chester Huffines	Davis Moore
Pink G. Curd	John M. Hunnicutt	J. Lee Moore
W. Q. Daniel	W. H. Hunt	Joe T. Morgan
F. E. Daugherty	R. L. Jackson	C. Homer Neikirk

Carl D. Perkins	Bruce Sloan	Erna E. Tyra
Kleber F. Price	Otto Smither	J. Wood Vance
Thomas Rigdon	E. T. Sparks	Walter R. Vansant
Joe E. Robinson	G. C. Springate	S. J. Wagner
Lyman Roll	J. Claude Stacy	Porter Wallace
Jack Savage	Ray J. Stengel	Harry F. Walters
Ray O. Shehan	Henry Stewart	Henry Ward
Dr. B. F. Shields	W. St. Clair Stuart	Otis White
Faust Y. Simpson	T. M. Swope	James H. Woods

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Mr. Easley moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Joe Robinson offered the following concurrent resolution, viz.:

H. Res. 4. Concurrent Resolution.

Be It Resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:

That when the House of Representatives and the Senate adjourn today, January 4, 1940, they adjourn to meet again on Tuesday, January 9, 1940, at one o'clock P.M.

Said resolution was adopted.

The House took up for consideration from the Calendar a bill and resolutions entitled:

H. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the State Government of the Commonwealth of Kentucky, including each of the various officers, departments, boards, commissions, institutions and sub-divisions of the State Government,

and the purchase of record books as provided by Sec. 388, Kentucky Statutes, 1936 Edition, judiciary and court costs, Confederate pensions, the Frankfort Cemetery, Jefferson and Kenton county fees, and for defraying the expenses of all other State obligations for (2) the fiscal years ending June 30, 1941, and June 30, 1942, etc.

H. Res. 1. Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate and appropriating the sum of $750.00 for a contingent fund for the Clerk of the House.

H. Res. 2. Resolution providing for the purchase of "The Legislative Digest."

Ordered that said bill and resolutions be read the second time.

The Constitutional provision as to the second reading of said bill and resolutions at length being dispensed with, said bill and resolutions were read the second time by their titles only.

Ordered that said bill and resolutions be placed in the Orders of the Day.

Mr. Joe Robinson moved that the House do now recess until eleven o'clock A.M.

Said motion was agreed to.

And then the House recessed.

The hour of eleven o'clock A.M. having arrived, the Speaker resumed the Chair and called the House to order.

A message was received from the Senate announcing that they had concurred in resolutions which originated in this House, entitled:

H. Res. 3. Resolution authorizing the printing of one thousand copies of the Governor's Message and one thousand copies of Legislative Council Report.

H. Res. 4. Concurrent resolution on adjournment of House of Representatives and Senate until Tuesday, January 9, at one o'clock P. M.

Mr. Joe Robinson moved that the House do now adjourn to meet again on Tuesday, January 9, at one o'clock P. M. pursuant to House Resolution No. 4.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, JANUARY 9, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Robert E. Barry	Douglas T. Bolling
J. Everett Bach	Wm. T. Beard	J. F. Bosworth
H. T. Baker	Alvis S. Bennett	W. S. Brim
G. M. Ballard	Sterling B. Blake	C. J. Bronston

Gus A. Brooks	R. L. Jackson	Joe E. Robinson
Randolph A. Brown	J. B. Jarboe, Jr.	Lyman Roll
Haynes Carman	Chas. X. Jones	Jack Savage
Charles M. Carter	William K. King	Carl Scheben
James W. Chapman	W. A. Lamkin, Jr.	Leon J. Shaikun
S. B. Chrisman	Robert E. Lee	Ray O. Shehan
John Coulter	Harvey D. Leonard	Dr. B. F. Shields
John H. Cox	Edward Leslie	Faust Y. Simpson
Pink G. Curd	W. Paul Lyon	Bruce Sloan
F. E. Daugherty	C. C. May	Otto Smither
Stanley S. Dickson	T. B. McConnell	E. T. Sparks
Forest C. Easley	Frank C. McElwain	G. C. Springate
D. E. Edwards	E. Hayes McMakin	J. Claude Stacy
Harry W. Ennis	Norris McPherson	Ray J. Stengel
R. R. Ernst	G. Sam Milam	Henry Stewart
Carlos Fallis	Stanley C. Moebus	W. St. Clair Stuart
T. P. Fitzpatrick	John B. Mollette	T. M. Swope
Cecil Florence	Davis Moore	Otis C. Thomas
Wayne Freeman	J. Lee Moore	Erna E. Tyra
Eugene Gough	Joe T. Morgan	J. Wood Vance
Van Y. Greene	C. Homer Neikirk	Walter R. Vansant
Ralph C. Hamilton	Carl D. Perkins	S. J. Wagner
C. L. Hammons	B. W. Porter	Porter Wallace
T. H. Hickey	H. O. Porter	Harry F. Walters
Clyde S. Howard	Kleber F. Price	Henry Ward
Chester Huffines	Hobart Rayburn	H. L. Waterfield
John M. Hunnicutt	Thomas Rigdon	Otis White
W. H. Hunt	W. H. Riley	James H. Woods

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Mr. Bach moved that the reading of the Journal of Thursday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Hammons moved that the session of today be extended indefinitely.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 1. RESOLUTION appropriating the sum of Seven Hundred and Fifty Dollars ($750.00) for a contingent fund for the Clerk of the Senate, and appropriating the sum of Seven Hundred and Fifty Dollars ($750.00) for a contingent fund for the Clerk of the House.

Said resolution is as follows, viz.:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That for the purpose of paying such expenses as the Chief Clerk of the Senate of Kentucky is directed to incur by the Senate of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty dollars ($750.00), and for the purpose of paying the expenses incurred by the Chief Clerk of the House of Representatives, under the direction of the House of Representatives of the Commonwealth of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty dollars ($750.00). Said respective funds shall be paid out on warrant of the Auditor issued on requisition of the Chief Clerk of the Senate and of the House of Representatives.

Mr. Milam moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
J. Everett Bach
H. T. Baker
G. M. Ballard
Robert E. Barry
Wm. T. Beard
Alvis S. Bennett
Sterling B. Blake
Douglas T. Bolling
J. F. Bosworth
W. S. Brim
C. J. Bronston
Gus A. Brooks
Randolph A. Brown
Haynes Carman
Charles M. Carter
John Coulter
John H. Cox
Pink G. Curd
F. E. Daugherty
Stanley S. Dickson
Forest C. Easley
D. E. Edwards
Harry W. Ennis
R. R. Ernst
Carlos Fallis
T. P. Fitzpatrick
Cecil Florence
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
John M. Hunnicutt
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Harvey D. Leonard
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
H. O. Porter
Kleber F. Price
Hobart Rayburn
Thomas Rigdon
W. H. Riley
Joe E. Robinson
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Ray O. Shehan
Faust Y. Simpson
Bruce Sloan
Otto Smither
G. C. Springate
J. Claude Stacy
Ray J. Stengel
Henry Stewart
W. St. Clair Stuart
T. M. Swope
Otis C. Thomas
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
S. J. Wagner
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Milam moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 2. Resolution providing for the purchase of "The Legislative Digest."

Said resolution is as follows, viz.:

WHEREAS, it is a matter of importance and convenience that each Representative and each Senator be advised as to the various and detailed steps of legislation; and

WHEREAS, the General Assembly for each of the past sessions since 1912 has approved and adopted as its official publication "The Legislative Digest", published under the management of competent and experienced persons, the purpose of which is to fully advise from day to day the officials and public of the Commonwealth as to matters affecting them in an intelligent and prompt manner; now, therefore

Be it Resolved by the House of Representatives of the Commonwealth of Kentucky and the Senate of the Commonwealth of Kentucky concurring, that:

§ 1. The State Journal Company hereby is authorized, requested and directed to furnish two hundred (200) copies of "The Legislative Digest" daily for delivery and distribution as hereinafter provided. The State Journal Company will be paid the sum of Two Thousand ($2,000.00) dollars for furnishing two hundred copies of "The Legislative Digest" daily as provided in this Resolution, which amount hereby is fixed, determined, approved and allowed as a contingent

expense of the 1940 regular session of the General Assembly of Kentucky. Said amount will be paid on or before March....., 1940, out of the appropriation heretofore made for the cost, salaries and expenses of the General Assembly. The State Journal Company will present to the Speaker of the House and to the President of the Senate its bill for Two Thousand ($2,000.00) dollars and the Speaker of the House and the President of the Senate hereby are authorized and directed to approve said bill for payment out of the appropriation hereinabove referred to; and when said bill is so approved, it shall be approved for payment by the Department of Finance; and, the Auditor of Public Accounts shall issue his warrant upon the State Treasurer in payment thereof, and the State Treasurer shall issue and deliver a check upon the State Treasury for the payment thereof.

§ 2. The State Journal Company hereby is directed to furnish and deliver daily to the Clerk of the House one hundred and ten (110) copies of "The Legislative Digest" for distribution to the Members of the House and to such officers of the House as the Speaker may direct; to furnish and deliver daily to the Clerk of the Senate forty-five (45) copies of "The Legislative Digest" for distribution to the members of the Senate and to such officers of the Senate as the President of the Senate may direct; and to furnish and deliver daily the remaining forty-five (45) copies of "The Legislative Digest" to the Governor of the Commonwealth of Kentucky and to such departments, officers and employees of the Commonwealth as the Governor of the Commonwealth, the President of the Senate and the Speaker of the House may direct. The Speaker of the House, the President of the Senate and the Governor of the Commonwealth hereby are requested to furnish to the State Journal Company a list of the departments, officers and employees to whom said copies are to be furnished as hereinabove provided.

The word "daily" as hereinabove used shall be construed to mean each day that the House or Senate is in session.

§ 3. "The Legislative Digest" hereby is adopted and approved as the official publication of the General Assembly of Kentucky.

§ 4. The Clerk of the House of Representatives, on the passage of this Resolution and the concurrence therein by the Senate, hereby is directed to furnish and deliver to the Department of Finance and to the Auditor of Public Accounts an attested or certified copy of this Resolution; and the amount hereinabove provided to be paid shall be noted and entered on the books of the Department of Finance and the books of the Auditor of Public Accounts as a charge against the appropriation hereinabove referred to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Alvis S. Bennett	Gus A. Brooks
J. Everett Bach	Sterling B. Blake	Randolph A. Brown
H. T. Baker	Douglas T. Bolling	Haynes Carman
G. M. Ballard	J. F. Bosworth	Charles M. Carter
Robert E. Barry	W. S. Brim	James W. Chapman
Wm. T. Beard	C. J. Bronston	S. B. Chrisman

John Coulter
John H. Cox
Pink G. Curd
F. E. Daugherty
Stanley S. Dickson
Forest C. Easley
D. E. Edwards
Harry W. Ennis
R. R. Ernst
Carlos Fallis
T. P. Fitzpatrick
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
John M. Hunnicutt
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Harvey D. Leonard
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
Stanley C. Moebus
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
H. O. Porter
Kleber F. Price
Hobart Rayburn
Thomas Rigdon
W. H. Riley
Joe E. Robinson
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Ray O. Shehan
Faust Y. Simpson
Bruce Sloan
Otto Smither
E. T. Sparks
G. C. Springate
J. Claude Stacy
Ray J. Stengel
Henry Stewart
W. St. Clair Stuart
T. M. Swope
Otis C. Thomas
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
S. J. Wagner
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. No. 1. An Act appropriating money for the operation, maintenance, support and functionings of the State Government of the Commonwealth of Kentucky, including each of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, and the purchase of record books as provided by Section 388, Kentucky Statutes, 1936 Edition, judiciary and court costs, Confederate pensions, the Frankfort Cemetery, Jefferson and Kenton County fees, and for defraying the expenses of all other State obligations for (a) the fiscal years ending June 30, 1941, and June 30, 1942, (b) the fiscal years of the Department of Highways ending March 31, 1941, and March 31, 1942, and (c) certain appropriations for the current fiscal year ending June 30, 1940; designating the sources and funds from which said appropriations are made, describing the manner in which they are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions and subdivisions of the State Government; providing for the establishment of certain revolving funds specifically mentioned; providing for money refunds; authorizing and empowering the Governor of the Commonwealth of Kentucky to limit and restrict expenditures of money appropriated, and to reduce or adjust each of the appropriations herein made; authorizing the State Budget Officer, with the approval of the Commissioner of Finance, to make allotments and reallotments from the appropriations made to the various officers, departments, boards, commissions, institutions, agencies and subdivisions of the State Government; authorizing transfers of appropriations and allotments from one budget class to another budget class within the same budget unit, and to provide for certain appropriations to be limited to specific purposes, and barring the use of appropriations for certain purposes; and repealing all blanket and continuing appropriations not pro-

vided for in this Act and appropriations made by any previous Act or Acts of the General Assembly of the Commonwealth of Kentucky, and repealing all laws or parts of laws in conflict with any of the provisions of this Act; enacting each section and each subsection as a separate or specific appropriation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1940, and ending June 30, 1941, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of County record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and any and all other agencies of the State Government of the Commonwealth of Kentucky subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which the specific appropriation is herein listed, excepting those listed in parts two and three of this Budget Act, for the following purposes:

PART ONE

1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation $10,000.00

(b) *Legislative Council.* For ordinary recurring expenses of operation $5,000.00

(c) *The Council of State Governments.* For aiding in the defraying of expenses of this Agency $250.00

(d) *Board of Election Commissioners.* For ordinary recurring expenses of operation $500.00

(e) *Board of Registration and Purgation.* For ordinary recurring expenses of operation $1,000.00

(f) *Presidential Electors.* For per diem and ordinary recurring expenses of operation $700.00

(g) *Railroad Commission.* For ordinary recurring expenses of operation $20,000.00

2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation $500.00

3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals.* For ordinary recurring expenses of operation $34,000.00

(b) *Clerk of Court of Appeals.* For ordinary recurring expenses of operation $16,000.00

(c) *Judicial Council.* For ordinary recurring expenses of operation $800.00

(d) *Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Fund, Commissions on Fines and Forfeitures.* For ordinary recurring expenses of operation of the laws applicable to Clerks' Services, Criminal Prosecutions, Jury Commissions, Trustees of Jury Funds, and Commissions on Fines and Forfeitures, ... $1,358,500.00

(e) *Salaries—Judges and Commonwealth's Attorneys.* For ordinary recurring expenses of operation $278,000.00

(f) *Return of Escaped Convicts.* For ordinary recurring expenses of operation in paying for return of escaped convicts authorized by the Governor which have not been previously paid $6,000.00

(g) *Rewards.* For paying of rewards authorized by the Governor of the Commonwealth $300.00

4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expenses of operation, ... $20,750.00

(b) *Executive Cabinet.* For ordinary recurring expenses of operation $4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent expenses of operation $6,000.00

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth and to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund $200,000.00

5. SECRETARY OF STATE

(a) *Secretary of State.* For ordinary recurring expenses of operation $19,300.00

(b) *Land Office.* For ordinary recurring expenses of operation $1,200.00

6. DEPARTMENT OF LAW

(a) *Attorney General.* For ordinary recurring expenses of operation $40,000.00

(b) *Cost of Suits.* For extraordinary expenses of operation and paying Clerks, Sheriffs, Public Officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to approval of the Department of Finance $6,000.00

(c) *Statute Revision Commission.* For ordinary recurring expenses of operation and extraordinary expenses deemed necessary by the Commission, when approved by the Commissioner of Finance $18,000.00

7. DEPARTMENT OF TREASURY

(a) *State Treasurer.* For ordinary recurring expenses of operation $31,000.00

(Of this amount, no sum shall be used for printing checks used for the State Highway Department and Old Age Assistance.)

(b) *State Treasurer.* Capital outlay for purchasing necessary equipment and bookkeeping machines to modernize bookkeeping procedure of the office $5,000.00

(c) *Custodian of Securities.* For ordinary recurring expenses of operation $600.00

8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts.* For ordinary recurring expenses of operation $35,000.00

(There is hereby appropriated to the Auditor of Public Accounts, for the use and benefit of said office, all of the fees that may be collected for the fiscal year.)

9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and Control, and Division of Purchases.* For ordinary recurring expenses of operation and the various divisions within the Department of Finance and the administration of Confederate Pensions, and administration of Public Printing $153,737.00

(b) *Division of Properties.* For Custodial care of public properties and for ordinary recurring expenses of operation $125,000.00

(c) *Public Printing Costs (Contractual Services).* For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units $16,000.00

(d) *Public Record Books (Paper and Printing).* For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year $20,925.00

(e) *Registration Books and Supplies.* For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936, Regular Session $500.00

(f) *Paper for Election Ballots and General Assembly.* For ordinary recurring expenses in furnishing paper for ballots for State elections and for the General Assembly, as required by law $8,000.00

(g) *Paper (Revolving Fund).* To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units $20,000.00

(h) *Postage (Revolving Fund).* To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units $10,000.00

(i) *Confederate Pensions.* For ordinary recurring expenses in paying pensions now provided for by law $170,000.00

(j) *Interest on Warrants.* For ordinary recurring expenses of interest due on outstanding interest-bearing warrants against the Commonwealth $150,000.00

(k) *New Lands and Buildings.* For extraordinary recurring expenses and capital outlay, and for ordinary recurring expenses in the restoration, repairing, replacement, equipment, maintenance, and improvements of State property $600,000.00

(There is also hereby appropriated for capital outlay, restoration, repairing, replacement, equipment, maintenance and improvement of state property, any and all monies, not otherwise appropriated or obligated, that have been and that may be received from the Federal Government or any Federal agency, as a reimbursement on the New Land and Building Program known as Kentucky PWA Docket No. 1269D, Construction Fund, and/or from any other Federal funds received or which may be received, which may be made applicable for use for said purposes or any of them.)

10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring

expenses of the various Divisions of the Department of Revenue, including the Division of Alcoholic Control $362,000.00

11. DEPARTMENT OF REVENUE, MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expenses of operation $307,000.00

(b) *County Boards of Supervisors.* For ordinary recurring expenses of operation $27,000.00

12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary recurring expenses of operation $6,500.00

(b) *Division of State Parks.* For ordinary recurring expenses of operation $41,000.00

(b1) (Of this amount $10,000.00 shall be earmarked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of Old Kentucky Home.)

(b2) (Of this amount $6,000.00 shall be used for the purpose of restoration of Constitutional Hall in Danville, Kentucky, and may be used to match Federal Funds which may be available and may be combined with a like appropriation for the fiscal year ending June 30, 1942, and for contractural purposes be obligated, but the appropriation for the fiscal year of 1941-1942 shall not be actually disbursed until after June 1, 1941.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation $14,000.00

(d) *Division of Publicity.* For ordinary recurring expenses of operation $20,000.00

13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation $30,000.00

(b) *Veterans' Division.* For ordinary recurring expenses of operation $18,000.00

(c) *Division of Armories.* For ordinary recurring expenses of operation $42,000.00

14. DEPARTMENT OF AGRICULTURE

(a) *Division of Agriculture.* For ordinary recurring expenses of operation $37,500.00

(Of this amount each item shall not exceed the amounts specified below):

(a1) Salaries of Division of Agriculture $10,500.00

(a2) Office and traveling expenses of the Division of Agriculture $5,000.00

(a3) Inspection of Tobacco Warehouses $6,000.00

(It is the intention of the Legislature that the appropriation for inspection of tobacco warehouses shall be expended during the period that tobacco sales are held at the various tobacco warehouses throughout the State, and no part of this sum may be expended for any period which is longer than one week prior to the beginning date of the first tobacco sale or two weeks after the closing date of the last tobacco sale at each of the various tobacco warehouses throughout the State.)

(a4) *Division of Markets.* For ordinary recurring expenses of operation $15,000.00

(a5) *Farm Tenancy Commission.* For actual traveling expenses of Commission members $1,000.00

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law $43,550.00

(Of this amount each item shall not exceed the amounts specified below):

(b1) Expenses and per diem of Board Members $1,050.00

(b2) Expenses of Live Stock Sanitary Board $20,000.00

(b3) Diseases of Live Stock $1,500.00

(b4) Bang's Disease $21,000.00

(c) *State Fair Board.* For ordinary recurring expenses of operation $139,250.00

(Of this amount each item shall not exceed the amounts specified below):

(c1) For per diem and expenses of Board Members $1,250.00

(c2) Operation of Kentucky State Fair $80,000.00

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary current operation expense of the Fair for the period covering the week of the Fair.)

(c3) Premiums for Kentucky State Fair $45,000.00

(c4) Retiring a part of the M. & M. Building bonded indebtedness maturing November 1, 1940 ..... $8,000.00

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)

(c5) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky products paid to Kentuckians $5,000.00

15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation $150,000.00

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation $2,500.00

(c) *Laboratories.* For ordinary recurring expenses of operation $5,000.00

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation $244,500.00

(e) *Visiting Nurses.* For ordinary recurring expenses of operation $6,000.00

(f) *Hazelwood Sanitorium.* For ordinary recurring expenses of operation $88,000.00

(g) *Interest on Bonds.* For extraordinary expenses of interest on Hazelwood Sanitorium bonds, ... $5,967.50

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation $90,000.00

16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions, Kentucky Children's Home (White and Colored), administration and supervision of enrollees from the various counties to the C. C. C. camps sponsored by the Federal Government, and the administration of the Department of Welfare, including probation and parole, ... $2,290,000.00

(b) *Home for Incurables.* For ordinary recurring expenses of operation $15,000.00

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare $4,000.00

(d) *Division of Public Assistance.* For ordinary expenses of operation and cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance, Chapter 94, 1936 Regular Session, and cooperation with Child Welfare and Aid to the Blind Programs $4,000,000.00

(e) *Emergency Relief.* For extraordinary expenses which constitute special emergencies and/or for relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State. Said fund to be administered and expended by the Governor of the Commonwealth $200,000.00

(f) *Conveyance of Lunatics.* For ordinary recurring expenses of operation $9,000.00

(g) *Pauper Idiots.* For ordinary recurring expenses of operation $73,000.00

(h) *Julius Marx Sanitorium.* For ordinary recurring expenses of operation as provided for in Section 2061-a-28, Kentucky Statutes $10,000.00

(i) *Covington, Kenton County, T. B. Sanitorium.* For ordinary recurring expenses of operation $7,500.00

17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction.* For ordinary recurring expenses of operation $60,000.00

(b) *Division of Certification.* For ordinary recurring expenses of operation $15,000.00

(c) *State Board of Education.* For ordinary recurring expenses of operation $15,000.00

(d) *State Textbook Commission.* For ordinary recurring expenses of operation $500.00

(e) *Common School Per Capita Fund.* For the payment of teachers' salaries and other expenses incidental to the operation and maintenance of the public schools of the State $9,461,061.84

(f) For interest on State School Bonds, as provided by the Constitution for the support of Common Schools, which amount shall be used to supplement the appropriation for Common School Per Capita $138,938.16

(g) *Free Textbooks.* For the purchase of textbooks as provided for in Chapter 48, Acts 1928 ..... $500,000.00

(h) *War Orphan Scholarship Fund.* For the purpose of carrying out the provisions of Sections 4376b-11 and 4527-31, Kentucky Statutes $1,400.00

(i) *Vocational Education.* For ordinary recurring expenses of operation under the provisions of existing laws $40,000.00

(j) *Vocational Rehabilitation.* For ordinary recurring expenses of operation in rehabilitating persons disabled in industry or otherwise $21,380.55

(k) *Kentucky State Industrial College.* For ordinary recurring expenses of operation for negroes $110,000.00

(l) *West Kentucky Vocational Training School.* For ordinary recurring expenses of operation for negroes $40,000.00

(m) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the state to obtain higher educational training $8,000.00

(n) *Kentucky School for the Blind. White.* For ordinary recurring expenses of operation $61,500.00

(o) *Kentucky School for the Blind. Colored.* For ordinary recurring expenses of operation $7,000.00

(p) *Kentucky School for the Blind—Workshop for the Adult Blind.* For ordinary recurring expenses of operation $14,800.00

(q) *Kentucky School for the Deaf. White.* For ordinary recurring expenses of operation $115,000.00

(r) *Kentucky School for the Deaf. Colored.* For ordinary recurring expenses of operation $8,500.00

(s) *Mayo Vocational Training School.* For ordinary recurring expenses of operation for white people $25,000.00

18. TEACHER RETIREMENT FUND BOARD

(a) *Teacher Retirement Fund.* Establishing a fund for administering and complying with the obligations of the State under the Teacher Retirement Act, Chapter 1 of the Acts of the General Assembly of 1938, First Special Session, or said Act as amended or superseded, an amount equal to the total money paid into the State Treasury during the fiscal year beginning July 1, 1940, and ending June 30, 1941, by teachers participating under the provisions of said Act, but not to exceed $500,000.00

19. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expenses of operation $818,000.00

(a1) For extraordinary expenses and capital outlay $82,000.00

(Of this amount each item shall not exceed the amounts specified below):

Repairs to Buildings $12,000.00
Library Equipment $10,000.00
Scientific Laboratory Equipment $20,000.00
Engineering Equipment $25,000.00
Home Economics Equipment $15,000.00

(b) *College of Agriculture.* For ordinary recurring expenses of operation $24,000.00

(c) *Summer School Session.* For ordinary recurring expenses of operation $10,000.00

(d) *Experiment Station.* For ordinary recurring expenses of operation $55,500.00

(Of this amount the sum of $7,500.00 shall be used for the purpose of research and experimental purposes in an effort to find new commercial uses for tobacco and its by-products.)

(e) *Service Laboratories.* For ordinary recurring expenses of operation $21,000.00

(f) *Nursery Inspection.* For ordinary recurring expenses of operation $2,000.00

(g) *Princeton Sub-Station.* For ordinary recurring expenses of operation $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-stations, and it is the

intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-station herein mentioned.)

(h) *Quicksand Sub-Station.* For ordinary recurring expenses of operation $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-Stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-stations herein mentioned.)

(i) *Agricultural Extension Work.* For ordinary recurring expenses of operation $130,000.00

20. STATE TEACHERS' COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expenses of operation $265,000.00

(b) *Morehead State Teachers College.* For ordinary and extraordinary recurring expenses of operation $219,000.00

(c) *Murray State Teachers College.* For ordinary recurring expenses of operation $239,000.00

(d) *Western Kentucky State Teachers College.* For ordinary recurring expenses of operation $360,000.00

(Of this sum $5,000.00 shall be used for the erecting and equipping of a refrigeration plant; and of this sum $5,000.00 shall be used for capital outlay in completing the heating plant.)

21. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian.* For ordinary recurring expenses of operation $9,000.00

(b) *Law Library—Books.* For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes $3,500.00

(c) *Library Sales Account—Kentucky Reports.* For ordinary and extraordinary recurring expenses of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided by law $10,000.00

(d) *Distribution and Repair of Books.* For ordinary recurring expenses of operation $500.00

(e) *Division of Library Extension.* For ordinary recurring expenses of operation $11,000.00

(f) *Kentucky State Historical Society.* For ordinary recurring expenses of operation $7,715.00

22. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation $6,500.00

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation $45,000.00

(c) *Division of Insurance.* For ordinary recurring expenses of operation $45,000.00

(d) *Division of Securities.* For ordinary recurring expenses of operation $7,500.00

23. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation $9,000.00

(b) *Kentucky State Employment Service.* For ordinary recurring expenses of operation $60,000.00

(c) *Division of Wage, Hours for Women and Minors.* For ordinary recurring expenses of operation $10,000.00

(d) *Division of Labor and Statistics.* For ordinary recurring expenses of operation $16,000.00

24. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation $25,000.00

(b) *Division of Geology.* For ordinary recurring expenses of operation $12,000.00

(There is hereby appropriated to this division all fees and collections for the purpose of establishing a revolving fund.)

25. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance $50,000.00

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by law to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State $2,500.00

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General $10,000.00

(d) *Interest on Land Grant Bonds.* For payment of interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes $9,900.00

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery to be paid to persons authorized by law to receive same $250.00

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes $3,000.00

(g) *Interest on Non-Resident Tax Deposits* $125.00

(h) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance $450,000.00

(i) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance $85,000.00

(j) *County Highway Patrol.* For the purpose of paying sheriffs of the various counties for performing duties as required by law $60,000.00

PART TWO

26. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* There shall be established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1940; and ending March 31, 1941, a state road fund; and there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues, authorized now by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now Collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenues shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department all monies received and placed to the credit of the

State Road Fund during the fiscal year ending March 31, 1941, not otherwise appropriated in this Act, for use and benefit of the State Road System in construction, maintenance, and repair of roads, and for all the activities and duties of said Department, as prescribed by law.

(b) *Divisions of Administration, Records, Equipment, Maintenance, and Construction.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941 for ordinary recurring administrative expenses of operation, the sum of $600,000.00

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941 to be used by the Division of Rural Highways for the improvement, reconstruction and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance, said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936 ..... $2,000,000.00

(Of this amount, not more than 10 per cent may be used for Administrative purpose for the Rural Highway Division in the Highway Department.)

(d) *Office Building.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941, for the extraordinary expense and capital outlay in partially completing the erection of a State office building in which the State Department of Highways and its divisions will be housed $175,000.00

(e) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1941, for the ordinary recurring expenses of operation of the Highway Patrol, as provided by law $300,000.00

27. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is

hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1941, for ordinary recurring expenses of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels $130,000.00

28. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Fund for the fiscal year ending June 30, 1941 for the use of the Department of Business Regulations, Division of Motor Transportation, for ordinary recurring expenses of operation $60,000.00

29. COUNTY AID REVOLVING FUND

(a) *County Aid.* There is hereby established a revolving fund for the purposes of carrying out the provisions of Chapter 31, Acts General Assembly, First Special Session 1938 ..... $500,000.00

PART THREE

REVOLVING, TRUST AND AGENCY FUNDS.

There is hereby appropriated to the various professional boards or other boards, commissions, institutions, agencies or subdivisions of the State Government for the fiscal year ending June 30, 1941, all of the fees (which include fees for board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards, or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use and benefit of each of the below-named professional boards, or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the

respective professional boards, or other boards, commissions, institutions, agencies or subdivisions of the State Government; which receipts are placed to the credit of a Revolving Fund (Minor Fund) out of which shall be established separate Revolving Fund Accounts for the use and benefit of each separate professional Board or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts received from the separate professional board or other boards, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional Board or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation properly approved by the Department of Finance, Division of Accounts and Control, and said requisitions shall not be approved unless there is to the credit of the Revolving Fund of such professional Board, or other board, commission, institution, agency and/or subdivision of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any agency may requisition from the Revolving Fund Account through the Department of Finance, shall not during the fiscal year ending June 30, 1941, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account for each separate agency during the fiscal year July 1, 1940 to June 30, 1941, inclusive, plus any balance which said professional board, or other board, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.

DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

AUDITOR OF PUBLIC ACCOUNTS—

County share of cost of audits.

DEPARTMENT OF FINANCE—

Duplicating Section.

Truck Licenses—County portion. There shall be credited to this fund for the purpose of distribution to counties from such portion of truck licenses as is now provided by law, at such times as the Department of Finance may order.

DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as are specifically provided for under Section 2739M-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees and revenues as provided for by Section 4257a-5, Kentucky Statutes.

Revenue Agents

COMMISSIONER OF AGRICULTURE—

Dog Law

DEPARTMENT OF CONSERVATION—

Division of State Parks

Division of Forestry (Federal)

Division of Game and Fish Commission

Division of Publicity

DEPARTMENT OF HEALTH—

Department of Health—General and Federal
Hazelwood Sanitorium
Office purchase fund which may be received from other funds.
Kentucky Crippled Children's Commission

DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene
Division of Corrections
Division of Child Welfare
Division of Public Assistance
Metal Stamping Plant
Welfare Construction Fund

DEPARTMENT OF EDUCATION—

Division of General Education Board
Jeannes Fund
Rosenwald Fund
Slater Fund
George-Deen Fund
Smith Hughes Fund
Vocational Rehabilitation—Federal
Vocational Rehabilitation—Private
Kentucky State Industrial College
West Kentucky Vocational Training School
Mayo Vocational Training School
State Board of Education—Investment Fund
Kentucky School for the Deaf
Workshop for the Adult Blind
University of Kentucky
Eastern Kentucky State Teachers College
Morehead State Teachers College
Murray State Teachers College
Western Kentucky State Teachers College
Lincoln Institute

TEACHER RETIREMENT FUND BOARD—
Teacher Retirement Fund.

DEPARTMENT OF LIBRARY AND ARCHIVES—
Kentucky Historical Society
Library Extension Division
Stephenson Fund
State Board of Certification of Librarians

DEPARTMENT OF BUSINESS REGULATIONS—
Division of Professional Regulations

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulations in the Department of Business Regulations shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department of Business Regulations. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy
State Board of Examiners and Registration of Architects
State Board of Barber and Beautician Examiners
State Board of Chiropractic Examiners
State Board of Dental Examiners
State Board of Embalmers
State Board of Pharmacy
State Board of Examiners of Trained Nurses
State Board of Veterinary Examiners
State Board of Bar Examiners
Insurance Examiners Expense
State Board of Professional Engineers
Division of Motor Transportation
Division of Insurance, Fire Prevention and Rates Section

All fees, receipts, collections and assessments paid into the State Treasury on and after January 1, 1940 under Section 762b-5, Kentucky Statutes, are hereby appropriated to the Division of Insurance, Fire Prevention and Rates Section, and may be used during the fiscal year ending June 30, 1940, and the unexpended balance remaining on June 30, 1940, and all collections made under said section from June 30, 1940 to December 31, 1940 are hereby appropriated for the fiscal year ending June 30, 1941; also, for the fiscal year ending June 30, 1941, an amount equal to twenty-five per cent of all fees and other receipts paid into the State Treasury from December 31, 1939 to December 31, 1940, under and pursuant to the provisions of Section 761, Kentucky Statutes is hereby appropriated to the Division of Insurance, Fire Prevention and Rates Section for the fiscal year ending June 30, 1941.

DEPARTMENT OF MINES AND MINERALS—

Division of Geology
Division of Coal Mining

PUBLIC SERVICE COMMISSION—

Out of the fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, and Chapter 13, First Special Session, 1938, a sum of $130,000.00 for the fiscal year ending June 30, 1941, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the Commission to perform all of the functions and duties of the said Commission as provided by law.

KENTUCKY REAL ESTATE BOARD—

DEPARTMENT OF INDUSTRIAL RELATIONS—

Division of Unemployment Compensation—Federal.
Kentucky State Employment Service.

JEFFERSON COUNTY MASTER COMMISSIONERS—

NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

EMERGENCY APPROPRIATION

There is hereby made a special emergency appropriation out of the General Fund for ordinary, recurring expenses of operation and of extraordinary expenses for the period from December 15, 1939, to June 30, 1940, for the purpose of paying the State's proportionate part of the cost incidental to the receiving and distribution of surplus food commodities from the Federal Government to persons eligible to receive relief food in the State of Kentucky and for other purposes deemed emergencies by the Governor of the Commonwealth, said fund to be administered by the Governor, ... $80,000.00

FISCAL YEAR 1941-1942

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1941, and ending June 30, 1942, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of county record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees, and any and all other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which these specific appropriations are herein listed, excepting those listed in Parts One-A and Two-A, for the following purposes:

PART ONE-A

1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation $170,000.00

(b) *Legislative Council.* For ordinary recurring expenses of operation $5,000.00

(c) *The Council of State Governments.* For aiding in defraying the expenses of this Agency $250.00

(d) *Board of Election Commissioners.* For ordinary recurring expenses of operation $500.00

(e) *Board of Registration and Purgation.* For ordinary recurring expenses of operation $1,000.00

(f) *Railroad Commission.* For ordinary recurring expenses of operation $20,000.00

2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation $1,000.00

3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals.* For ordinary recurring expense of operation $34,000.00

(b) *Clerk of Court of Appeals.* For ordinary recurring expense of operation $16,000.00

(c) *Judicial Council.* For ordinary recurring expense of operation $800.00

(d) *Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, Commissioners on Fines and Forfeitures.* For ordinary recurring expense of operation of the laws applicable to Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissioners on Fines and Forfeitures $1,358,500.00

(e) *Salaries of Judges and Commonwealth Attorneys.* For ordinary recurring expense of operation $278,000.00

(f) *Return of Escaped Convicts.* For ordinary recurring expense of operation for paying for returning escaped convicts authorized by the Governor, which have not been previously paid $6,000.00

(g) *Rewards.* For payment of rewards authorized by the Governor of the Commonwealth $300.00

4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expense of operation $20,750.00

(b) *Executive Cabinet.* For ordinary recurring expense of operation $4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent expenses of operation $6,000.00

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund..... $200,000.00

5. DEPARTMENT OF STATE

(a) *Secretary of State.* For ordinary recurring expense of operation $19,300.00

(b) *Land Office.* For ordinary recurring expense of operation $1,200.00

6. DEPARTMENT OF LAW

(a) *Attorney General.* For ordinary recurring expense of operation $40,000.00

(b) *Cost of Suits.* For extraordinary expense of operation, and paying clerks, sheriffs, public officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to the approval of the Department of Finance $6,000.00

(c) *Statute Revision Commission.* For ordinary recurring expense of operation and extraordinary expenses deemed necessary by the Commission and approved by the Commissioner of Finance $18,000.00

7. DEPARTMENT OF TREASURY

(a) *State Treasurer.* For ordinary recurring expense of operation $31,000.00

(Of this amount no sum shall be used for printing checks used by the State Highway Department, and for paying recipients of Old Age Assistance. These costs shall be borne by the respective departments.)

(b) *Custodian of Securities.* For ordinary recurring expense of operation. $600.00

8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts.* For ordinary recurring expense of operation $35,000.00

(There is hereby appropriated to the Auditor of Public Accounts, for the use and benefit of said office, all of the fees that may be collected for the fiscal year.)

9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and Control, and Division of Purchases.* For ordinary recurring expenses of operation of the various divisions within the Department of Finance, and the administration of Confederate Pensions, and Public Printing $153,737.00

(b) *Division of Properties.* For custodial care of public properties and for ordinary recurring expenses of operation $125,000.00

(c) *Public Printing Costs. (Contractural Services.)* For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units..... $16,000.00

(d) *Public Record Books. Paper and Printing.* For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year ending June 30, 1942 ..... $20,925.00

(e) *Registration Books and Supplies.* For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936, Regular Session $500.00

(f) *Paper for Election Ballots and General Assembly.* For ordinary recurring expenses in furnishing paper for ballots for State elections and General Assembly as required by law $8,000.00

(g) *Paper (Revolving Fund).* To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units $20,000.00

(h) *Postage (Revolving Fund.)* To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units $10,000.00

(i) *Confederate Pensions.* For ordinary recurring expenses in paying pensions now provided for by law..... $160,000.00

(j) *Interest on Warrants.* For ordinary recurring expense of interest due on outstanding interest-bearing warrants against the Commonwealth $150,000.00

(k) *New Lands and Buildings.* For extraordinary recurring expenses and capital outlay, and for ordinary recurring expenses in the restoration, repairing, replacement, equipment, maintenance, and improvements of State property $600,000.00

(There is also hereby appropriated for capital outlay, restoration, repairing, replacement, equipment, maintenance and improvement of state property, any and all monies, not otherwise appropriated or obligated, that have been and that may be received from the Federal Government or any Federal agency, as a reimbursement on the New Land and Building Program known as Kentucky PWA Docket No. 1269D, Con-

struction Fund, and/or from any other Federal funds received or which may be received, which may be made applicable for use for said purposes or any of them.)

10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring expense of various divisions of the Department of Revenue, including the Division of Alcoholic Control.....$362,000.00

11. DEPARTMENT OF REVENUE

MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expense of operation $307,000.00

(b) *County Boards of Supervisors.* For ordinary recurring expense of operation $27,000.00

12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary and recurring expense of operation $6,500.00

(b) *Division of State Parks.* For ordinary recurring expense of operation $41,000.00

(b1) Of this sum $10,000.00 shall be ear-marked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of the Old Kentucky Home.)

(b2) Of this amount $6,000.00 shall be used for the purpose of the restoration of Constitutional Hall in Danville, Kentucky, and may be used to match Federal Funds which may be available and may be combined with a like appropriation for the fiscal year ending June 30, 1941 and, for contractual purposes, be obligated, but the appropriation for the fiscal year ending June 30, 1942 shall not actually be disbursed until after the beginning of the fiscal year July 1, 1941.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation $14,000.00

(d) *Division of Publicity.* For ordinary recurring expenses of operation $20,000.00

13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation $30,000.00

(b) *Veterans' Division.* For ordinary recurring expenses of operation $18,000.00

(c) *Division of Armories.* For ordinary recurring expenses of operation $42,000.00

14. DEPARTMENT OF AGRICULTURE

(a) *Division of Agriculture.* For ordinary recurring expenses of operation $37,500.00

(Of this amount each item shall not exceed the amounts specified below):

(a1) Salaries of Division of Agriculture $10,500.00

(a2) Office and traveling expenses of Division of Agriculture $5,000.00

(a3) Inspection of Tobacco Warehouses $6,000.00

(It is the intention of the Legislature that the appropriation for inspection of tobacco warehouses shall be expended during the period that tobacco sales are held at the various tobacco warehouses throughout the State, and no part of this sum may be expended for any period which is longer than one week prior to the beginning date of the first tobacco sale and two weeks after the closing date of the last tobacco sale at each of the various tobacco warehouses throughout the State.)

(a4) Division of Market—For ordinary recurring expenses of operation $15,000.00

(a5) Farm Tenancy Commission—For actual traveling expenses of Board Members $1,000.00

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law $43,550.00

(Of this amount each item shall not exceed the amount specified below:)

(b1) Expenses and per diem of Board Members $1,050.00

(b2) Expenses of Live Stock Sanitary Board $20,000.00

(b3) Diseases of Live Stock $1,500.00

(b4) Bang's Disease $21,000.00

(c) *State Fair Board.* For ordinary recurring expenses of operation $145,250.00

(Of this amount each item shall not exceed the amount specified below:)

(c1) For per diem and expenses of Board Members $1,250.00

(c2) Operation of Kentucky State Fair $80,000.00

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary current operating expense of the Fair for the period covering the week of the Fair.)

(c3) Premiums for Kentucky State Fair $45,000.00

(c4) Retiring a part of the M. & M. Building bonded indebtedness maturing November 1, 1941 ..... $14,000.00

(c5) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky Products paid to Kentuckians $5,000.00

15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation $150,000.00

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation $2,500.00

(c) *Laboratories.* For ordinary recurring expenses of operation $5,000.00

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation $244,500.00

(e) *Visiting Nurses.* For ordinary recurring expenses of operation $6,000.00

(f) *Hazelwood Sanitorium.* For ordinary recurring expenses of operation $88,000.00

(g) *Interest on Bonds.* For extraordinary expense of interest on Hazelwood Sanitorium Bonds $5,705.00

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation $90,000.00

16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions, Kentucky Children's Home, White and Colored, administration and supervision of enrollees from the various counties into the C.C.C. camps sponsored by the Federal Government, and the administration of the Department of Welfare, including probation and parole $2,310,000.00

(b) *Home for Incurables.* For ordinary recurring expenses of operation, ... $15,000.00

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, ... $4,000.00

(d) *Division of Public Assistance.* For ordinary recurring expenses of operation, and in cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance under House Bill No. 427, 1936 Regular Session, and in cooperation with Child Welfare, and Aid to the Blind programs, ... $4,000,000.00

(e) *Emergency Relief.* For extraordinary expenses which constitute special emergencies and/or for the relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State, said fund to be administered and expended by the Governor of the Commonwealth, ... $200,000.00

(f) *Conveyance of Lunatics.* For ordinary recurring expenses of operation, ... $9,000.00

(g) *Pauper Idiots.* For ordinary recurring expenses of operation, ... $73,000.00

(h) *Julius Marx Sanitorium.* For ordinary recurring expenses of operation as provided for in Section 2061-a-28, Kentucky Statutes, ... $10,000.00

(i) *Covington, Kenton County, T. B. Sanitorium.* For ordinary recurring expenses of operation $7,500.00

17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction.* For ordinary recurring expenses of operation, ... $60,000.00

(b) *Division of Certification.* For ordinary recurring expenses of operation, ... $15,000.00

(c) *State Board of Education.* For ordinary recurring expenses of operation, ... $15,000.00

(d) *State Text-Book Commission.* For ordinary recurring expenses of operation, ... $500.00

(e) *Common School Per Capita Fund.* For payment of teachers' salaries, and other expense incidental to the operation and maintenance of the public schools of the State, ... $9,561,061.84

(f) *Interest on State School Bonds.* For payment as provided by the Constitution for the support of the Common Schools, which amount shall be used to supplement the appropriation for common school per capita, ... $138,938.16

(g) *Free Text Books.* For purchase of text books as provided in Chapter 49, Acts of 1928, ... $500,000.00

(h) *War Orphan Scholarship Fund.* For the purpose of carrying out the provision of Sections 4376b-11, and 4527-31, Kentucky Statutes, ... $1,400.00

(i) *Vocational Education.* For ordinary recurring expenses of operation under the provision of existing laws..... $40,000.00

(j) *Vocational Rehabilitation.* For ordinary recurring expenses of operation in rehabilitating persons disabled in industry, or otherwise $21,380.55

(k) *Kentucky State Industrial College.* For ordinary recurring expense of operation for negroes, ... $110,000.00

(l) *West Kentucky Vocational Training School.* For ordinary recurring expense of operation for negroes,..... $40,000.00

(m) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher educational training, ... $9,000.00

(n) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation, ... $61,500.00

(o) *Kentucky School for the Blind—Colored.* For ordinary recurring expense of operation, ... $7,000.00

(p) *Kentucky School for the Blind—Work Shop for Adult Blind.* For ordinary recurring expense of operation $14,800.00

(q) *Kentucky School for the Deaf—White.* For ordinary recurring expense of operation, ... $115,000.00

(r) *Kentucky School for the Deaf—Colored.* For ordinary recurring expense of operation, ... $8,500.00

(s) *Mayo Vocational Training School.* For ordinary recurring expense of operation for white people $25,000.00

18. TEACHER RETIREMENT FUND BOARD

(a) *Teacher Retirement Fund.* Establishing a fund for administering and complying with the obligations of the State under the Teacher Retirement Act, Chapter 1 of the Acts of the General Assembly of 1938, First Special Session, or said Act as amended or superseded, an amount equal to the total money paid into the State Treasury during the fiscal year beginning July 1, 1941 and ending June 30, 1942, by teachers participating under the provisions of said Act, but not to exceed $500,000.00

19. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expense of operation, ... $818,000.00

(a1) For extraordinary expense of capital outlay, ... $67,000.00

(Of this amount each item shall not exceed the amount specified below:)

Repairs for Building $12,000.00
Library Equipment $10,000.00
Scientific Laboratory Equipment $20,000.00
Engineering Equipment $25,000.00

(b) *College of Agriculture.* For ordinary recurring expenses of operation, ... $24,000.00

(c) *Summer School.* For ordinary recurring expense of operation, ... $10,000.00

(d) *Experiment Station.* For ordinary recurring expense of operation, ... $55,500.00

(Of this amount the sum of $7,500.00 shall be used for the purpose of research and experimental purposes in an effort to find new commercial uses for tobacco and its by-products.)

(e) *Service Laboratory.* For ordinary recurring expense of operation, ... $21,00.00

(f) *Nursery Inspection.* For ordinary recurring expense of operation, ... $2,000.00

(g) *Princeton Sub-Station.* For ordinary recurring expense of operation, ... $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-Stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-stations herein mentioned.)

(h) *Quicksand Sub-Station.* For ordinary recurring expense of operation, ... $16,000.00

(This appropriation has been increased $2,000.00 and the duties required of the Kentucky University, Division of Agriculture, as defined in Chapter 30, Acts of the General Assembly, First Special Session, 1938, are transferred to the Princeton and Quicksand Sub-Stations, and it is the intention of the Legislature to discontinue the appropriation made for Horticultural Promotion and transfer all duties now performed to the sub-stations herein mentioned.

(i) *Agriculture Extension Work.* For ordinary recurring expense of operation, ... $130,000.00

20. STATE TEACHERS COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expense of operation, ... $265,000.00

(b) *Morehead State Teachers College.* For ordinary and extraordinary recurring expenses of operation, ... $219,000.00

(c) *Murray State Teachers College.* For ordinary recurring expenses of operation, ... $239,000.00

(d) *Western Kentucky State Teachers College.* For ordinary recurring expenses of operation, ... $360,000.00

(Of this sum $5,000.00 shall be used for the erecting and equipping of a refrigeration plant; and of this sum $5,000.00 shall be used for capital outlay in completing the heating plant.)

21. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian.* For ordinary recurring expenses of operation, ... $9,000.00

(b) *Law Library—Books.* For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes, ... $3,500.00

(c) *Library Sales Account—Kentucky Reports.* For ordinary and extraordinary expense of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided by law, ... $10,000.00

(d) *Distribution and Repair of Books.* For ordinary recurring expenses of operation, ... $500.00

(e) *Division of Library Extension.* For ordinary recurring expenses of operation, ... $11,000.00

(f) *Kentucky State Historical Society.* For ordinary recurring expenses of operation, ... $7,715.00

22. DEPARTMENT OF BUSINESS REGULATION

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation, ... $6,500.00

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation, ... $45,000.00

(c) *Division of Insurance.* For ordinary recurring expenses of operation, ... $45,000.00

(d) *Division of Securities.* For ordinary recurring expenses of operation, ... $7,500.00

23. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation, ... $9,000.00

(b) *Kentucky State Employment Service.* For ordinary recurring expenses of operation, ... $60,000.00

(c) *Division of Wage Hours for Women and Minors.* For ordinary recurring expenses of operation, ... $10,000.00

(d) *Division of Labor and Statistics.* For ordinary recurring expenses of operation, ... $16,000.00

24. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation, ... $25,000.00

(b) *Division of Geology.* For ordinary recurring expenses of operation, ... $12,000.00

25. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance, ... $50,000.00

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by Statutes to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State, ... $2,500.00

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General, ... $10,000.00

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes, ... $9,900.00

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery and to be paid to persons authorized by law to receive same, ... $250.00

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes, ... $3,000.00

(g) *Interest on non-resident tax Deposits* $125.00

(h) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, ... $450,000.00

(i) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in form and manner prescribed by law and approved by the Commissioner of Finance, ... $85,000.00

(j) *County Highway Patrol.* For the purpose of paying sheriffs of the various counties for performing duties as required by law, ... $60,000.00

PART TWO-A

26. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* There shall be established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1941 and ending March 31, 1942, a State Road Fund; and there is hereby appropriated to the State Road Fund all the funds

now realized out of the State revenues, now authorized by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the tax on other Motor Fuels, now collected by law, or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department, all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1942, not otherwise appropriated in this Act, for the use and benefit of the State road system in construction, maintenance and repair of roads, and for all the activities and duties of said Department, as prescribed by law.

(b) *Divisions of Records, Administration, Equipment, Maintenance, and Construction.* There is hereby appropriated out of the State Highway Fund for the Fiscal year ending March 31, 1942, for ordinary recurring administrative expense of operation $600,000.00

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1942, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936 ..... $2,000,000.00

(Of this amount, not more than 10 per cent may be used for Administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal

year ending March 31, 1942, for ordinary recurring expenses of operation of the Highway Patrol, as provided by law $300,000.00

27. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1942, for the ordinary recurring expense of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels $130,000.00

28. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Road Fund for the Fiscal Year ending June 30, 1942, for the use of the Department of Business Regulation, Division of Motor Transportation, for ordinary recurring expenses of operation $60,000.00

29. COUNTY AID REVOLVING FUND

(a) *County Aid.* There is hereby established a revolving fund for the purpose of carrying out the provisions of Chapter 31, Acts of the General Assembly, First Special Session, 1938 ..... $500,000.00

PART THREE-A

REVOLVING, TRUST AND AGENCY FUNDS

There is hereby appropriated to the various professional boards, or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1942, all of the fees (which include fees from

board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards or other boards, commissions, institutions, agencies and subdivisions of the State government, for the use and benefit of each of the below-named professional boards or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the respective professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government; which receipts are placed to the credit of the Revolving Fund (Minor Funds) out of which shall be established a Revolving Fund Account for the use and benefit of each separate professional board or other boards, commissions, institutions, agencies and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts, from a separate professional board, or other board, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional board, or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisitions shall not be approved unless there is to the credit of the Revolving Fund Account of such professional board, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any one professional board or other boards, commission, institution, agency, and/or subdivision of the State Government may requisition from the Revolving Fund

Account through the Department of Finance shall not during the fiscal year ending June 30, 1942, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account, during the fiscal year July 1, 1941 to June 30, 1942, inclusive, plus any balance which said professional board, or other boards, commission, institution, agency, and/or subdivision of the State Government may have transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.

DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

AUDITOR OF PUBLIC ACCOUNTS—

County share of cost of audits.

DEPARTMENT OF FINANCE—

Duplicating Section.

Truck Licenses—County portion. There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is now provided by law as ordered by the Department of Finance distributed.

DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as specifically provided for under Section 2739-m-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees and revenues as provided for by Section 4257a-5, Kentucky Statutes.

Revenue Agents.

COMMISSIONER OF AGRICULTURE—

Dog Law.

DEPARTMENT OF CONSERVATION—
Division of State Parks.
Division of Forestry (Federal).
Division of Game and Fish Commission.
Division of Publicity.

DEPARTMENT OF HEALTH—
Department of Health—General and Federal.
Hazelwood Sanitorium.
Office purchase fund which may be received from other funds.
Kentucky Crippled Children's Commission.

DEPARTMENT OF WELFARE—
Division of Hospitals and Mental Hygiene.
Division of Corrections.
Division of Child Welfare.
Division of Public Assistance.
Metal Stamping Plant.
Welfare Construction Fund.

DEPARTMENT OF EDUCATION—
Division of General Education Board.
Jeannes Fund.
Rosenwald Fund.
Slater Fund.
George-Deen Fund.
Smith-Hughes Fund.
Vocational Rehabilitation—Federal.
Vocational Rehabilitation—Private.
Kentucky State Industrial College.
State Board of Embalmers.
State Board of Pharmacy.
State Board of Veterinary Examiners.
State Board of Examiners of Trained Nurses.
State Board of Bar Examiners.

Insurance Examiners Expense.
State Board of Professional Engineers.
Division of Motor Transportation.
Division of Insurance—Fire Prevention and Rates Section.

All fees, receipts, collections and assessments paid into the State Treasury from December 31, 1940 to December 31, 1941, under section 762-b-5, Kentucky Statutes, and also an amount equal to twenty-five per cent of all fees and other receipts paid into the State Treasury from December 31, 1940 to December 31, 1941, pursuant to the provisions of Section 761, Kentucky Statutes, hereby is appropriated to the Division of Insurance, Fire Prevention and Rates Section, for the fiscal year ending June 30, 1942.

DEPARTMENT OF MINES AND MINERALS—
Division of Geology.
Division of Coal Mining.

PUBLIC SERVICE COMMISSION—

Out of the fees collected by the Public Service Commission, as provided by Chapter 145, Regular Session of the 1934 General Assembly, and Chapter 13, First Special Session, 1938, a sum of $130,000.00 for the fiscal year ending June 30, 1942, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the Commission to perform all of the functions and duties of said Commission as provided by law.

KENTUCKY REAL ESTATE BOARD.

DEPARTMENT OF INDUSTRIAL RELATIONS—
Division of Unemployment Compensation—Federal.
Kentucky State Employment Service.

JEFFERSON COUNTY MASTER COMMISSIONERS.
NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

The following sections 30, 31, 32, 33, 34, 35 and 36 are enacted and apply to Parts One, Two and Three of the appropriations for the fiscal year ending June 30, 1941, and apply to Parts One-A, Two-A and Three-A of the appropriations for the fiscal year ending June 30, 1942.

30.

All receipts, fees, and/or revenue, regardless of whether heretofore specified in this Act, of every department, board, commission, institution, agency, division, or subdivision of the State Government shall be covered into the State Treasury immediately after the close of each month through the Department of Finance and placed to the credit of the General Expenditure Fund, excepting those revenues which are specifically allocated to the State Road Fund or the Revolving Fund which shall be credited to their respective funds as provided for in this Act. The fees, receipts, and/or revenue of every officer, department, division, subdivision, commission, board, institution, or agency of the State Government shall be covered into the State Treasury immediately after the close of each month, and placed to the credit of the General Expenditure Fund and shall be used to defray the expenses of the State Government, and the appropriations made from the General Expenditure Fund in this Act, unless otherwise specifically appropriated to one of the professional boards, commissions, institutions, agencies, or subdivisions of the State Government for Revolving Fund purposes; such agencies shall be only those that are listed in this Act as having been approved for Revolving Fund Accounts.

West Kentucky Vocational Training School
Mayo Vocational Training School
State Board of Education—Investment Fund
Kentucky School for the Deaf

Workshop for the Adult Blind
University of Kentucky
Eastern Kentucky State Teachers College
Morehead State Teachers College
Murray State Teachers College
Western Kentucky State Teachers College
Lincoln Institute

TEACHER RETIREMENT FUND BOARD—
Teacher Retirement Fund.

DEPARTMENT OF LIBRARY AND ARCHIVES—
Kentucky Historical Society
Library Extension Division
Stephenson Fund
State Board of Certification of Librarians

DEPARTMENT OF BUSINESS REGULATIONS—
The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy
State Board of Examiners and Registration of Architects
State Board of Chiropractic Examiners
State Board of Dental Examiners

31.

The appropriations herein made for the ordinary recurring expenses and extraordinary expense and capital outlay for any officer, department, board, commission, institution, and subdivision of the State Government of the Common-

wealth of Kentucky shall not be available for expenditure until allotted as now provided by law, and such appropriations as are specifically made in this Act are hereby declared to be maximum and conditional appropriations except when the Governor determines an emergency exists in any department, board, commission, institution, or subdivision of the State Government requiring an additional allotment of funds to be made from the General Emergency Fund hereby placed at his disposal and made a specific appropriation to be used by him to meet existing emergencies so determined by him. This appropriation is designated under Section 4 "EXECUTIVE DEPARTMENT" Item (d) Part One for the fiscal year ending June 30, 1941, and Section 4, "EXECUTIVE DEPARTMENT" Item (d) Part One-A for the fiscal year ending June 30, 1942, of this Act.

Since the actual needs of each officer, department, board, commission, institution, or subdivision of the State Government can only be anticipated and not finally determined by the Legislature, and since the total amount of revenue accruing to the General Expenditure Fund from which these appropriations are hereby made can only be anticipated through existing laws and those that may hereafter be enacted, it is the purpose and intention of the Legislature that the State expenditures for each fiscal year covered in this Act shall not exceed the total revenues accruing to the General Expenditure Fund for the same fiscal year. As the conditions cannot be finally determined until after the adjournment of this session of the Legislature, and as the needs of each officer, department, board, commission, institution or subdivision of the State Government and the total revenues accruing to the General Fund cannot be fully determined at this time, it is the intention and the purpose of this Legislature that the Governor of the Commonwealth is, therefore, hereby authorized, empowered and directed to ascertain the needs of each officer, department, board, commission, institution, or subdivision of the State Government, and to ascertain the

total revenues accruing to the General Expenditure Fund of the Commonwealth, and upon the ascertainment of said facts, he, the Governor is hereby authorized, empowered, and directed by the Legislature to prevent an over-draft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, without discrimination, the appropriations herein made to any officer, department, board, commission, institution, or subdivision of the State Government; provided that the power hereby invested and granted to the Governor shall not permit any reduction of the appropriation of any officer, department, board, Commission, institution or subdivision of the State Government that will actually impair the necessary governmental functions of any agency whose operations and functions are determined to be a necessary governmental function.

32.

To carry out the purpose of this Act for the biennium beginning July 1, 1940, and ending June 30, 1942, the State Budget Officer, with the approval of the Commissioner of Finance, is hereby empowered and granted the authority to make allotments and/or reallotments from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, so as to prevent an over-draft, or a deficit in any fiscal year for which appropriations are herein made, and to prevent the maximum appropriation made to any officer, department, board, commission, institution, or subdivision of the State Government from being exceeded.

33.

Nothing in this Act shall be construed to repeal any appropriation for the fiscal year ending June 30, 1940, which was made under the provisions of Chapter 1, Acts of the 1938 Regular Session and of Chapter 15, Chapter 30, and Chapter 31, Acts of the General Assembly, First Special Session, 1938, and Chapter 1, Acts of the Second Special Session, 1938.

34.

In enacting this Budget Appropriation Law, it is the deliberate intention of the General Assembly to enact each section, and each sub-section thereof, as a separate and/or specific appropriation and law; and if any section or any sub-section thereof shall be held invalid, or unconstitutional the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

35.

All continuing appropriations in existence at the time of this Act are hereby discontinued and repealed by this Act. All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are hereby repealed.

36.

WHEREAS, the Commonwealth has been called upon to provide funds necessary to supplement Federal funds for the purpose of carrying on the receiving and distribution of Federal surplus commodities to be distributed to the needy; and

WHEREAS, the appropriation made by the General Assembly at its 1938 Regular Session for relief of the indigent persons and other emergencies deemed by the Governor are exhausted; and

WHEREAS, it is imperative that funds be made available for the period from December 15, 1939, to June 30, 1940, for relief and other emergencies deemed as such by the Governor; and

WHEREAS, there is a need for the provisions of other sections of this budget to become operative at once, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

Mr. Joe Robinson offered the following amendments to said bill, viz.:

1. Amend H. B. 1 on page 10, section 15, line 15 after the word "Kentucky" and before the word "Children's", strike out the word "Crippel" and insert in lieu therefor the word "Crippled".

2. Amend H. B. 1, printed copy on page 21, section 29, Part 3, line 50 by striking out the word "not" before the word "provided" and after the word "is" and inserting in lieu thereof the word "now".

3. Amend H. B. 1, printed copy on page 11, section 16, lines 26, 27, 28, 29 and 30 by striking therefrom all of lines 26, 27, 28, 29 and 30.

4. Amend H. B. 1, printed copy on page 10, section 15 after line 16 by inserting the following words, figures and paragraph in section 15 on page 10 of the printed bill after sub-section "h";

(i) Julius Marx Sanitorium. For ordinary recurring expenses of operation as provided for in Section 2061-a-28, Kentucky Statutes $10,000.00

(j) Covington, Kenton county T. B. Sanitorium. For ordinary recurring expenses of operation $7,500.00

5. Amend H. B. 1 printed copy on page 34, section 16, lines 27, 28, 29, 30 and 31 by striking therefrom all of lines 27, 28, 29, 30 and 31.

6. Amend H. B. 1, printed copy on page 33, section 15 after line 16 by inserting the following words, figures and paragraphs: In section 15, on page 33 after subsection "h" of the printed bill:

(i) Julius Marx Sanitorium. For ordinary recurring expenses of operation as provided for in Section 2061a-28, Kentucky Statutes $10,000.00

(j) Covington, Kenton county T. B. Sanitorium. For ordinary recurring expenses of operation $7,500.00

7. Amend H. B. 1, printed copy on page 25, Part 3, after line 156 by inserting the words "Workmen's Compensation Board."

8. Amend H. B. 1 printed copy on page 46 Part 3A after line 121 by inserting the words, "Workmen's Compensation Board".

Said amendments were each and severally agreed to.

Mr. Lamkin offered the following amendment to said bill, viz.:

Amend H. B. 1, printed copy on page 13, section 18 by striking out entirely said section, lines 1, 2, 3, 4, 5, 6 and 7 inclusive.

Said amendment was disagreed to.

Mr. Neikirk offered the following amendment to said bill, viz.:

Amend H. B. 1, printed copy on page 10 section 16 between line 6 and 7 by inserting "of this amount the sum of $20,000.00 shall be used for the purpose of aid to the indigent, adult crippled of the Commonwealth."

Said amendment was disagreed to.

The yeas and nays being required thereon by Messrs. Neikirk and Mollette were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	Charles M. Carter	Carlos Fallis
G. M. Ballard	S. B. Chrisman	C. L. Hammons
Alvis S. Bennett	John H. Cox	T. H. Hickey
J. F. Bosworth	R. R. Ernst	W. H. Hunt

W. Paul Lyon	Jack Savage	Otis C. Thomas
John B. Mollette	Ray O. Shehan	Porter Wallace
C. Homer Neikirk	E. T. Sparks	
Lyman Roll	Henry Stewart	—22

Those who voted in the negative were—

C. W. Anderson, Jr.	Ralph C. Hamilton	Hobart Rayburn
J. Everett Bach	Clyde S. Howard	Thomas Rigdon
Robert E. Barry	Chester Huffines	W. H. Riley
Wm. T. Beard	John M. Hunnicutt	Joe E. Robinson
Sterling B. Blake	R. L. Jackson	Carl Scheben
Douglas T. Bolling	J. B. Jarboe, Jr.	Leon J. Shaikun
W. S. Brim	Chas. X. Jones	Faust Y. Simpson
C. J. Bronston	William K. King	Bruce Sloan
Gus A. Brooks	W. A. Lamkin, Jr.	Otto Smither
Randolph A. Brown	Robert E. Lee	G. C. Springate
Haynes Carman	Harvey D. Leonard	J. Claude Stacy
James W. Chapman	Edward Leslie	Ray J. Stengel
John Coulter	C. C. May	W. St. Clair Stuart
Pink G. Curd	Frank C. McElwain	T. M. Swope
F. E. Daugherty	Norris McPherson	Erna E. Tyra
Stanley S. Dickson	G. Sam Milam	J. Wood Vance
Forest C. Easley	Stanley C. Moebus	Walter R. Vansant
D. E. Edwards	Davis Moore	S. J. Wagner
Harry W. Ennis	J. Lee Moore	Harry F. Walters
T. P. Fitzpatrick	Joe T. Morgan	Henry Ward
Cecil Florence	Carl D. Perkins	H. L. Waterfield
Wayne Freeman	B. W. Porter	Otis White
Eugene Gough	H. O. Porter	James H. Woods
Van Y. Greene	Kleber F. Price	—71

Mr. Gough offered the following amendment to said bill, viz.:

Amend H. B. 1 on page 12 line 28 by changing the sum of $110,000.00 to read $125,000.00.

Without objection said amendment was withdrawn by Mr. Gough.

Mr. Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	John Coulter	T. H. Hickey
J. Everett Bach	John H. Cox	Clyde S. Howard
H. T. Baker	Pink G. Curd	Chester Huffines
G. M. Ballard	W. Q. Daniel	John M. Hunnicutt
Robert E. Barry	F. E. Daugherty	W. H. Hunt
Wm. T. Beard	Stanley S. Dickson	R. L. Jackson
Alvis S. Bennett	Forest C. Easley	J. B. Jarboe, Jr.
Sterling B. Blake	D. E. Edwards	Chas. X. Jones
Douglas T. Bolling	Harry W. Ennis	William K. King
J. F. Bosworth	R. R. Ernst	W. A. Lamkin, Jr.
W. S. Brim	Carlos Fallis	Robert E. Lee
C. J. Bronston	T. P. Fitzpatrick	Harvey D. Leonard
Gus A. Brooks	Cecil Florence	Edward Leslie
Randolph A. Brown	Wayne Freeman	W. Paul Lyon
Haynes Carman	Eugene Gough	C. C. May
Charles M. Carter	Van Y. Greene	T. B. McConnell
James W. Chapman	Ralph C. Hamilton	Frank C. McElwain
S. B. Chrisman	C. L. Hammons	E. Hayes McMakin

Norris McPherson	W. H. Riley	Henry Stewart
G. Sam Milam	Joe E. Robinson	W. St. Clair Stuart
Stanley C. Moebus	Lyman Roll	T. M. Swope
John B. Mollette	Jack Savage	Otis C. Thomas
Davis Moore	Carl Scheben	Erna E. Tyra
J. Lee Moore	Leon J. Shaikun	J. Wood Vance
Joe T. Morgan	Ray O. Shehan	Walter R. Vansant
C. Homer Neikirk	Faust Y. Simpson	S. J. Wagner
Carl D. Perkins	Bruce Sloan	Porter Wallace
B. W. Porter	Otto Smither	Harry F. Walters
H. O. Porter	E. T. Sparks	Henry Ward
Kleber F. Price	G. C. Springate	H. L. Waterfield
Hobart Rayburn	J. Claude Stacy	Otis White
Thomas Rigdon	Ray J. Stengel	James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Joe Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a Joint resolution which originated in that body, entitled:

S. Res. 5. Joint resolution appropriating from the Legislative Session Fund additional compensation for the following officers and employees of the Senate and the House of Representatives: Assistant Clerk, Enrolling Clerk, Sergeant-at-Arms, Doorkeeper, Cloakroom Keeper, Janitor and Pages for the duration of the 1940 regular session.

Ordered that said resolution be printed and referred

To Committee on Appropriations No. 1.

Mr. Joe Robinson moved that the rules of this House be suspended for the purpose of proceeding with the Regular Order of Business.

Said motion was agreed to.

Mr. Waterfield moved that an indefinite leave of absence be granted to Mr. Juett.

Said motion was agreed to.

Mr. Swope offered the following resolution, viz.:

Whereas our great president, Franklin D. Roosevelt and our National Congress have thus far kept our beloved country out of the European war and it is now proposed by the President to raise an adequate amount of money for further emergency national defense, and

Whereas, President Franklin D. Roosevelt officially and personally together with many others in high position in this country, have expressed deep interest in and grave struggle for existance in opposition to the onrush of Red Communism, now therefore

Be It Resolved by the House of Representatives of the General Assembly of Kentucky in biennial session assembled, that we hereby endorse and heartily approve the wisdom and farsighted statesmanship of our President on foreign policies and his present proposal for national defense. That we approve and endorse the President, Congress, Ex-President Hoover, and all others in their noble efforts looking toward giving aid and succor to the Honorable free democratic nation of Finland.

That a copy of this resolution of loyal Kentuckians be forwarded to President Roosevelt, to the end of encouraging him and others to carry out the program for national defense

and to aid the stricken and unfortunate citizenship of an unjustly attacked and over-run democracy of Finnish people.

Said resolution was adopted.

Mr. Savage of the Committee heretofore appointed to draft suitable resolutions on the death of the late Honorable Adolph Wells, offered the following resolution, viz.:

Whereas, God in His Infinite Wisdom has seen fit to call Adolph Wells to his eternal rest, and

Whereas, Adolph Wells was designated and elected by the voters and citizens of Jefferson County to represent them as a member of the Kentucky General Assembly, and

Whereas, by his devotion to good government, his honesty, integrity and vision he gained the confidence of his fellow citizens of this Commonwealth so that they placed their confidence and trust in him by electing him as their representative, and

Whereas, by his humanitarian principles he endeared himself to all his friends and dealth honorably with them, be they black or white, rich or poor, Protestant, Jewish or Catholic, be they representatives of capital or labor, and

Whereas, Adolph Wells was a credit to his community and to his State, now therefore,

Be It Resolved, That the members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky do hereby express their heartfelt sorrow at the loss of their fellow member and a most loyal and sincere citizen to the bereaved widow of the late Adolph Wells;

Be It Further Resolved, That in memory of his devotion to his fellow men and to good government, that a copy of this resolution be spread upon the Journal of the House of Repre-

sentatives of the Commonwealth of Kentucky, and a copy thereof be sent to his bereaved widow.

J. J. SAVAGE
RANDOLPH A. BROWN
ROBERT E. BARRY
CHAS. W. ANDERSON, JR.
RAYMOND J. STENGEL
LEON J. SHAIKUM
NORRIS MCPHERSON,
Committee

Mr. Daugherty announced the death on this morning of The Honorable J. C. W. Beckham, former Governor of this Commonwealth and present member of the Public Service Commission and requested that the Speaker appoint a committee of five members to draft suitable resolution on the part of the House of Representatives on the death of Mr. Beckham.

Thereupon the Speaker announced the following as members of said Committee: Messrs. Daugherty, Joe Robinson, Lee Moore, Henry Ward and Harry F. Walters.

Mr. Daugherty moved that when the House adjourn today, it adjourn out of respect to the memory of the late Honorable J. C. W. Beckham.

Said motion was agreed to.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Vance.

H. B. 2. An Act to amend and re-enact Chapter 65, Acts of the General Assembly of 1932, and to change and fix the time of terms of court in the Tenth Judicial District.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That on and after the first day of May, 1940, the regular terms of the circuit court in the counties comprising the Tenth Judicial District of Kentucky shall commence in each of the counties of the district at the following times and continue for the terms, if the business of the court require it, the number of days hereinafter prescribed namely:

Barren County, at Glasgow, first Monday in January, twelve juridical days; third Monday in June, twelve juridical days; first Monday in September, eighteen juridical days.

Hart County at Munfordville, third Monday in January, twelve juridical days; first Monday in May, twelve juridical days; fourth Monday in September, twelve juridical days.

Larue County, at Hodgenville, first Monday in February, twelve juridical days; third Monday in May, twelve juridical days; second Monday in October, twelve juridical days.

Nelson County, at Bardstown, third Monday in February, twelve juridical days; first Monday in June, twelve juridical days; fourth Monday in October, twelve juridical days.

Metcalfe County, at Edmonton, fourth Monday in March, six juridical days; first Monday in July, six juridical days; second Monday in November, six juridical days.

Bullitt County, at Shepherdsville, first Monday in April, twelve juridical days; third Monday in July, twelve juridical days; third Monday in November, eighteen juridical days.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

By Mr. Scheben.

H. B. 3. AN ACT conferring on the counties of the Commonwealth of Kentucky the power to adopt ordinances

and resolutions providing for the zoning and regulation of the location, height, bulk, and use of buildings and other structures, and of the uses of land, and the requirement of building permits in the portions of counties lying outside of cities, boroughs, municipalities, and townships; providing for the creation, organization, powers, and duties of county zoning commissions and boards of adjustment; imposing duties on State officials, departments, and agencies; and prescribing penalties.

Said bill as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Ordinances and Resolutions. The fiscal court of the several counties of the Commonwealth of Kentucky may adopt resolutions and ordinances prescribing the manner in which powers of the county shall be carried out and generally regulating the affairs of the county. All such ordinances, unless otherwise provided by law, shall be published at least once in one newspaper of general circulation in the county. Such ordinance shall not become effective until ten days after the publication aforesaid. In any case in which maps, plans or drawings of any kind are adopted as part of an ordinance, the fiscal court may, instead of publishing the same as part of the ordinance, refer in publishing the ordinance to the place where such maps, plans or drawings are on file and may be examined.

The fiscal court may also prescribe fines and penalties, not exceeding three hundred dollars ($300.00) in any instance, for the violation of county ordinances, which fines and penalties may be collected by suit brought in the name of the county before any justice of the peace or any county court in like manner as debts of like amount may be sued for by existing laws.

§ 2. Grant of Power. The fiscal court of any county is hereby empowered, in accordance with the conditions and

procedure specified in the subsequent sections of this article, by ordinance, to regulate in any portion or portions of such county which lie outside of cities, boroughs, municipalities and townships, the location, height, bulk, and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts, and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

§ 3. Zoning Commission. In order to avail itself of the powers conferred by this act, the fiscal court shall appoint a permanent commission of three, five or seven members, which shall be known as the county zoning commission.

Any individual, whether in private or ex-officio capacity, may be appointed to serve on such commission, and the majority of the members thereof shall be individuals who do not hold elective public office. The fiscal courts of two or more counties may arrange or provide for a joint or common commission, and, for the purposes of this act, any such joint or common zoning commission shall be deemed the zoning commission of each of such counties. The fiscal court shall provide for reimbursement of the members of the zoning commission for actual expenses incurred, and shall provide for the filling of vacancies in the membership of such commission, and for the removal of a member for nonperformance of duty or misconduct.

§ 4. Assistance from State Agencies; Personnel. The zoning commission is directed to make use of the expert advice and information which may be furnished by appropriate State and Federal officials, departments, and agencies, and all State officials, departments, and agencies having information, maps, and data pertinent to county zoning are hereby authorized and directed to make the same available for the use of the

county zoning commission, as well as to furnish such other technical assistance and advice as they may have available for such purpose. The zoning commission may employ such trained personnel as the funds therefor may permit.

§ 5. Preparation of Zoning Plan. It shall be the duty of the zoning commission of any county to make, for certification to the fiscal court of such county, a zoning plan or plans, including both the full text of the zoning ordinance or ordinances and the maps and representing the recommendations of the commission for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

When the efforts of such commsision shall have reached the stage of a tentative plan, the commission shall hold at least one public hearing on each tentative plan to be separately submitted, notice of which hearings shall be published at least fifteen days before the date of the hearing in a newspaper of general circulation in the county. The notice shall contain the time and place of hearing, and shall specify the place and times at which the tentative text and maps of the zoning ordinance may be examined. For the purpose of its public hearing or hearings, the commission shall have power to summon witnesses, administer oaths, and compel the giving of testimony.

Before finally adopting and certifying any zoning plan, the zoning commission shall submit its tentative plan to an appropriate State agency for advice and recommendations. In the event that, after such public hearing or hearings and after such submission to the said State agency, the zoning

commission, in the light of the developments at such hearing or hearings or the advices and recommendations of the said State agency, makes changes in its said tentative plan, there shall be no requirement of any hearing upon such changes or any submission of such changes to the said State agency.

§ 6. Zoning Ordinance. From and after the time when a zoning commission of any county, in accordance with the procedure specified in the next preceding section of this article, makes, adopts, and certifies to the fiscal court of its county, each zoning plan, including both the full text of a zoning ordinance and the maps, then the fiscal court may, by ordinance, exercise the powers granted to it in Section 2 of this act, and, for the purpose of such exercise, the fiscal court may divide the territory of the county, which lies outside of municipalities which now have authority to adopt and enforce zoning ordinances, into districts or zones of such number, shape or area as it may determine, and within such districts, or any of them, may regulate the erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land, and may require and provide for the issuance of building permits as a condition precedent to the right to erect, construct, reconstruct, or alter any building or structure within any district covered by such zoning ordinance. All such regulations shall be uniform for each class or kind of buildings throughout any district, but the regulations in one district may differ from those in other districts.

§ 7. Method of Procedure. After receiving the certification of a zone plan from the zoning commission and before the enactment of any zoning ordinance, the fiscal court shall hold a public hearing thereon, of the time and place of which at least thirty days' notice shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps as certified by the zoning commission may be

examined. The court may conduct consultative hearings or referenda to aid it in determining the desirability of contemplated or recommended regulations. No change in or departure from the text or maps, as certified by the zoning commission, shall be made unless such change or departure shall first be submitted to the zoning commission for its approval or disapproval or suggestions. The zoning commission shall have thirty days from and after such submission within which to send its report to the fiscal court: Provided, however, That no approval, disapproval or suggestions of the zoning commission shall have more than advisory effect or shall in anywise bind the fiscal court.

§ 8. Purposes and Zoning Regulations. Such regulations shall be designated and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity or welfare of the present and future inhabitants of the Commonwealth of Kentucky, including, amongst other things, the lessening of congestion in the streets or roads or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, preventing on the one hand excessive and wasteful scattering of population or settlement and on the other hand excessive concentration of population, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supply, protection of the tax base, securing economy in governmental expenditures, fostering the Commonwealth's agricultural and other industries, and the protection of both urban and non-urban development.

§ 9. Amendments. The fiscal court may, from time to time, amend the number, shape, boundary or area of any district or districts, or any regulation of, or within, such

district or districts, or any other provision of any zoning ordinance, but no such amendment shall be made or become effective until the same shall have been proposed by or be first submitted for approval, disapproval or suggestions to the zoning commission and the appropriate State agency. Any proposal, approval, disapproval or suggestions of the zoning commission or the said State agency shall have advisory effect only and not be binding upon the fiscal court, and, unless such zoning commission or said State agency shall have transmitted its report upon the proposed amendment within thirty days after the submission thereof to it, the fiscal court shall be free to proceed to the adoption of the amendment without further awaiting the receipt of the report of the zoning commission or said State agency. Before finally adopting any such amendment, the fiscal court shall hold a public hearing thereon, at least thirty days' notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county.

§ 10. Cooperation Between Counties. The zoning commission of any county may cooperate with the zoning commissions of other counties and with the planning, zoning, legislative, and administrative authorities of cities, boroughs, municipalities or townships, either within or without such county, with a view to coordinating and integrating the zoning of the county with the planning and zoning of other counties or of municipalities. The zoning commission shall also have power to appoint such commitee or committees, and adopt such rules for the conduct of its business, as it may deem proper to effect such cooperation or to more expeditiously and effectively perform its functions.

§ 11. The Board of Adjustment. The fiscal court of any county which enacts zoning regulations under the authority of this act, shall provide for a board of adjustment of three to five members and for the manner of the appointment of such members. Not more than half of the members of such

board may at any time be members of the zoning commission. The fiscal court shall fix per diem compensation and terms for the members of such board of adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year. Any member of the board of adjustment may be removed for cause by the fiscal court upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. The fiscal court may appoint associate members of such board, and in the event that any regular member be temporarily unable to act owing to absence from the county, illness, interest in a case before the board of any other cause, his place may be taken during such temporary disability by an associate member designated for the purpose. The fiscal courts of two or more counties may arrange and provide for a joint or common board of adjustment of four or five members, which joint or common board of adjustment shall be deemed the board of adjustment of each of such counties.

The fiscal court shall provide and specify in its zoning or other ordinances general rules to govern the organization, procedure, and jurisdiction of said board of adjustment, which rules shall not be inconsistent with the provisions of this act, and the board of adjustment may adopt supplemental rules of procedure not inconsistent with this act or such general rules.

Any zoning ordinance of the fiscal court may provide that the board of adjustment may in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the zoning ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The fiscal court may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions, as they may arise in the administration of the zoning regulations.

Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

§ 12. Appeals to the Board of Adjustment. Appeals to the board of adjustment may be taken by any person aggrieved by his inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning ordinance. Appeals to the board of adjustment may be taken by any officer, department, board or bureau of the county affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning ordinance. The time within which such appeal must be made, and the form or other procedure relating thereto, shall be as specified in the general rules provided by the fiscal court to govern the procedure of such board of adjustment or in the supplemental rules of procedure adopted by such board.

Upon appeals the board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning ordinance.

(2) To hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass.

(3) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property to authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties, or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plans and zoning ordinances.

The concurring vote of four members of the board in the case of a five-member board, and of three members in the case of a three-member board, shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency or to decide in favor of the appellant.

§ 13. Court Review. Any persons jointly or severally aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, board or bureau of the county may present to any court within the county in which the property concerning which such decision was made is located, a petition duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality. Such a petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition, the court may allow a writ of certiorari, directed to the board

of adjustment, to review such decision of the board of adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the orignial papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

§ 14. Violations; Enforcement and Remedies. It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in, or of any provision of, any zoning ordinance, or any amendment thereof, enacted or adopted by any fiscal court under the authority of this act. Any person, firm or corporation violating any such regulation, provision

or amendment, or any provision of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars ($100.00), or imprisoned not more than ten days, or both, Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used, in violation of this act, or of any regulation or provision of any ordinance, or amendment thereof, enacted or adopted by any fiscal court under the authority granted by this act, such court, the district attorney of the county or any owner of real estate within the district in which such building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

§ 15. Nonconforming Uses. The lawful use of a building or structure, or the lawful use of any land, as existing and lawful at the time of the enactment of a zoning ordinance, or in the case of an amendment of an ordinance, then at the time of such amendment, may, except as hereinafter provided, be continued although such use does not conform with the provisions of such ordinance or amendment, and such use may be extended throughout the same building, provided no structural alteration of such building is proposed or made for the purpose of such extension. The fiscal court may provide in any zoning ordinance for the restoration, reconstruction, extension or substitution of non-conforming uses upon such terms and conditions as may be set forth in the zoning ordinance. The fiscal court may in any zoning ordinance provide for the termination of nonconforming uses, either by specifying the period or periods in which non-

conforming uses shall be required to cease, or by providing a formula or formulae whereby the compulsory termination of a nonconforming use may be so fixed as to allow for the recovery or amortization of the investment in the nonconformance.

If any county acquire title to any property by reason of tax delinquency and such property be not redeemed as provided by law, the future use of such property shall be in conformity with the then provisions of the zoning ordinance of the county, or with any amendment of such ordinance, equally applicable to other like properties within the district in which the property acquired by the county is located.

§ 16. List of Nonconforming Uses. Immediately after the adoption of any zoning ordinance or amendment by the fiscal court, the county zoning commission shall prepare and publish a complete list of all nonconforming uses and occupations existing at the time of the adoption of such ordinance or amendment. Such list shall contain the names and addresses of the owner or owners of such nonconforming use and of any occupant, other than the owner, the legal description or descriptions of the land, and the nature and extent of land use. After any necessary corrections have been made under a procedure prescribed by the fiscal court, copies of such list shall, when approved by such body, be filed for record in the offices of the recorder of deeds and of the chief clerk in the county in which the lands are situated, and shall be corrected yearly as the fiscal court may prescribe.

§ 17. Filing. Upon the adoption of any zoning ordinance or regulation, map or maps, the fiscal court may file the originals with the chief clerk and a certified copy of each in the office of the county recorder of deeds, which copies shall be accessible to the public. The recorder of deeds shall index such ordinances and regulations as nearly as possible in the same manner as he indexes instruments pertaining to the title of land.

§ 18. Finances. The fiscal court is empowered to appropriate out of the general county fund such moneys, otherwise unappropriated, as it may deem fit to finance the work of the county zoning commission and of the board of adjustment, and to enforce the zoning regulations and restrictions which are adopted, and to accept grants of money and service for these purposes, and other purposes, in accordance with this act, from either private or public sources, State or Federal.

§ 19. Conflict with Other Laws. Whenever any regulations made under authority of this act require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions are the regulations made under authority of this act shall govern. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by any regulations made under authority of this act, the provisions of such statute shall govern.

§ 20. Act Not to Apply to Certain Buildings of Public Utility Corporations. This act shall not apply to any existing or proposed building or extension thereof, used or to be used by public utility corporations, if, upon petition of the corporations, the Kentucky Public Service Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

§ 21. Definitions. The words "amend," "amendment," "amendments," or "amended," in this act, shall be deemed to include any modification of the text or phraseology of any provision of any zoning ordinance, or amendment thereof, or any repeal or elimination of any such provision, or part

thereof, or any addition to the ordinance, or to an amendment thereof, and shall also be deemed to include any change in the number, shape, boundary or area of any district or districts, any repeal or abolition of any map forming part of, or referred to, in any zoning ordinance or any part of such map, any addition to such map, any new map or maps, or any other change in the maps or any map.

By Same.

H. B. 4. An Act creating a Monopoly Board regulating the sale of musical compositions within the Commonwealth of Kentucky, providing for court procedure and penalties and receiverships and for the filing of lists of publications.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. It shall be unlawful for any person who, without the consent of the owner thereof, shall cause to be publicly performed for profit any dramatic composition, or dramatic musical composition commonly called an opera, or other copyrighted works, or any substantial part thereof, which has been copyrighted under the laws of the United States, or for any person to knowingly participate in the performance or representation of any substantial part thereof, or by knowingly selling a substantial copy or any substantial part thereof.

§ 2. It shall be unlawful for two or more persons holding or claiming separate copyrighted works under the copyright laws of the United States, either within or without the state, to band together, or to pool their interests for the purpose of fixing the prices on the use of said copyrighted works, or to pool their separate interests or to conspire, federate, or join together, for the purpose of collecting fees in this state, or to issue blanket licenses in this state, for the right to com-

mercially use or perform publicly their separate copyrighted works: Provided, however, Such persons may join together if they issue licenses on rates assessed on a per piece system of usage: Provided, further, This act shall not apply to any one individual author or composer or copyright holder or owner who may demand any price or fee he or she may choose for the right to use or publicly perform his or her individual copyrighted work or works: Provided, further, Such per piece system of licensing must not be in excess of any per piece system in operation in other states where any group or persons affected by this act does business, and all groups and persons affected by this act are prohibited from discriminating against the citizens of this state by charging higher and more inequitable rates per piece for music licenses in this state than in other states: Provided, further, Where the owner, holder, or person having control of any copyrighted work has sold the right to the single use of said copyrighted work, where its sole value is in its use for public performance for profit, and has received any consideration therefor, either within or without the state, then said person or persons shall be deemed to have sold and parted with the right to further restrict the use of said copyrighted work or works.

§ 3. In the event two or more persons holding separate copyrighted musical works, or any rights flowing therefrom whether by assignment, agency agreements or by any form of agreement, pool their interests, or combine, or conspire, federate, or join together in any way, whether for a lawful purpose or otherwise, a complete list of their copyrighted works or compositions shall be filed once each year in the office of the secretary of state of the Commonwealth of Kentucky together with a list of the prices charged or demanded for their various copyrighted works: no payment or filing fee shall be required by the secretary of state, and said persons, corporations, or associations, foreign or domestic, shall state therein under oath, that said list is a complete cata-

logue of the titles of their claimed compositions, whether musical or dramatic or of any other classification, and in addition to stating the name and title of the copyrighted work it shall recite therein the date each separate work was copyrighted, and the name of the author, the date of its assignment, if any, or the date of the assignment of any interest therein if any, and the name of the publisher, the name of the present owner, together with the addresses and residences of all parties who have at any time had any interest in such copyrighted work. The secretary of state shall require two copies of said list, one of which he shall keep on file, the other shall be forwarded to the office of the state treasurer at Frankfort.

§ 4. The foregoing list of names and titles, provided for in the preceding section, shall be made available by the secretary of state to all persons for examination, in order that any user of copyrighted works in this state may know the rights and titles to such copyrighted works as may be claimed by any of said combinations, pools, associations, or persons as aforesaid; said lists shall be prepared so that all persons may avoid using said copyrighted compositions, if they so desire, and may avoid conflict therewith, and avoid committing innocent infringements of said works; and in order to further effectuate the copyright laws of the United States, the secretary of state shall, if he deems it necessary to protect the citizens of this state from committing innocent violations of the copyright laws of the United States, publish such list once each year in a newspaper of general circulation, in order that all citizens of the state may respect any and all individual rights granted by the United States copyright laws.

§ 5. No person, corporation, or association, domestic or foreign, whether doing business in this state as hereinafter defined or not, shall be absolved from the foregoing duty of filing said list of holdings as required in the preceeding sections of this act, if their music or copyrighted

works are used commercially in this state, or have been used herein whether originating from a point within the state or from without, and as long as any rendition thereof is received or heard within the state, or is intended to be so received by the originator of any musical program: Provided, however, Any individual owner of a copyrighted work or works, not a party to or not connected in any way with any pool, conspiracy, combination, or groups, or association of persons, as prohibited by this act, need not file any such list.

§ 6. It is hereby declared that the production and creation of music and the commercial use of music and of copyrighted works within this state whether originating at a point from within or without the state, as long as the same shall be rendered and publicly received within the confines of this state, whether mechanically or by radio communication, is a business clothed and affected with the public interest, and the adult educational advantages engendered by the public use of music and in its creation, makes this business one of public necessity, and necessary for the education and training of the youth of this state; that many abuses are practiced under a false guise of Federal protection which only the state with its police power can easily and lawfully restrain, and in order to prohibit, discourage, and prevent monopolistic practices, and to prevent extortion, to encourage free bargaining between the citizens of this state with each other and with those without the state, and in order to give greater effect to the constitutional provisions relating to monopoly and price-fixing, and in the general interest of the public, therefore, the general assembly in the interest of the peace and dignity of the state, in the interest of good morals and the general welfare of the people of this state, and for greater education advantages to the public declares that said business shall be subject to the police power and reasonable regulation of the state government, and such police and regulating power shall be administered by the courts and other officials of this state in a manner consistent with,

in aid of, and never in conflict with, the copyright laws of the United States. The provisions of this act, and the administration thereof, shall at all times effectuate the enforcement, the true intent, and meaning of the United States copyright laws in order to prevent abuses from being practiced within this state from points within or from points without the state, by any individual, corporation, or organizations, who attempt to use the Federal courts as innocent instrumentalities in the furtherance of any systematic campaign or scheme designated to fix illegally prices for the commercial use of copyrighted works in this state through the use of extortionate means and terrorizing practices based on threats of suits, and an abuse of both state and Federal process, all of which are declared to be in violation of this act and of the state constitution: and it is further declared that any person or persons, or combines, as aforesaid, who shall violate this act shall be deemed to have used their property within this state in such a way that the same shall have acquired a legal situs, analogous to the situs of other personal, tangible property within the state, even though separate from the domicile and residence of the owner: Provided, further, the legal situs of any copyrighted work is co-extensive about the state, and a copyrighted work used or sold for public use or public performance for profit, if intended to be heard from a point without the state or from a point within the state, is hereby declared to be a commercial commodity, and its legal situs is hereby declared to be within the Commonwealth of Kentucky.

§ 7. All persons, groups, corporations, associations, foreign or domestic, violating this chapter, shall be deemed to have been doing business within this state and amenable to the process of the state courts, when any such persons, combinations, or groups shall have issued licenses, either from within or from without the state, for the privilege of using commercially and publicly any copyrighted work or works pooled in a common group or entity, or when any of the functions of said entity, organization, pool, or combine, is or

has been performed in this state; and the business of spying upon and the warning of users of the copyrighted works of such combinations, in addition to the presence within the state of such persons, and the activities of such persons or their agents at any time or occasion for the detection of infringements within this state, shall be conclusive evidence that such combinations and persons, even though non-residents, have accepted the privileges of doing business within this state, and such persons, if they abide by the provisions of this act, shall be granted the privilege of conducting business within this state in a legal manner, and may invoke the benefits of the state government and its political subdivisions in their behalf and they may use all of the privileges available to the citizens of this state in general, and the use at any time of any general privilege available to any citizen of this state, by any of such agents, their attorneys, or representative, or investigator, or by any aider and abettor, or any nonresident person, group, entity, or combination as aforesaid, shall be deemed to be an acceptance of the provisions of this act; and all licensees of any violator of this act shall be deemed as aiders and abettors of said persons and subject to the provisions of this act unless they forthwith indicate their obedience herewith; and the acceptance of the general privileges of the Commonwealth of Kentucky by any nonresident copyright holder or owner, or combination, defendant or person or organization of any kind, or entity, through an investigator, attorney, agent, representative, or through any aider and abettor as herein defined, and the acceptance by such persons of the rights, police protection, or of any general privilege conferred by the laws of this state to any of its citizens, including the use of the roads and highways, or the privileges of any of its political subdivisions, as evidenced by their presence within the state at any time, shall be deemed equivalent to and construed to be an appointment by such nonresident or nonresidents as the case may be of the secretary of state of the Commonwealth of Kentucky to be his or their

true and lawful attorney upon whom may be served all summons and processes against him or them and growing out of a violation of this act in which said nonresident may be involved and said acceptance of the privileges of this Commonwealth of Kentucky as aforesaid, shall be a signification of his or their agreement that any summons or process against him or them which is so served shall be of the same legal force and validity as if served on him or them personally within the Commonwealth of Kentucky. Service of such summons or process shall be made by leaving a copy thereof with a fee of two dollars ($2) with the secretary of state of the Commonwealth of Kentucky or in his office, and such service shall be sufficient and valid personal service upon any such nonresident defendant, copyright holder or owner, persons, or defendants, combination, entity, or organization, as aforesaid: Provided, That notice of such service and a copy of the summons of process shall be forthwith sent by registered mail requiring personal delivery, by the prosecutor bringing any action under this act, to any defendant at his last known address, and the defendant's return receipt and the prosecutor's affidavit of compliance herewith are appended to the process and entered as a part of the return thereof: Provided, further, The court in which any action is brought may order such continuances as may be necessary to afford any nonresident defendant or groups, or entity, a reasonable opportunity to defend the action: Provided, further, The secretary of state shall keep a record of all such summons and process which shall show the day and time of service: and valid personal service shall thus be had on nonresident persons or individuals, entities, firms, or corporations violating this act.

§ 8. In the event any person, or groups of persons, or any combination or pool as aforesaid, whether a nonresident corporation person, or an association, or domestic, refuse to abide by the provisions hereof, or attempt to evade or render ineffectual the true enforcement of any provision of this act,

then the prosecuting attorney of any county where complaint is made of any violation, shall institute injunction proceedings against said persons in the superior court, and valid personal service may be had upon any nonresident defendant as set forth in the preceding section: and the court shall enjoin all persons from violating the provisions of the act and the constitutional provisions prohibiting price fixing, monopolies, and combinations, and all copyrighted works and the public performance rights thereto when sold or used for profit are hereby declared to be a commercial commodity, and all persons, aiders and abettors, and agents, shall be enjoined by the court from aiding or furthering in any way a continuation of any violation of this act, either by the payment of money to said defendants or in any way: and if any defendant or defendants persist in defying the judgment of the court, the court shall, in order to effectuate its judgment and orders, order three (3) days' notice to be given said defendant or defendants, as the case may be, by having a copy of such notice served on the secretary of state as heretofore provided if defendants are without the Commonwealth, or served personally if within the Commonwealth and have the same published in some daily paper of general circulation in the Commonwealth, and at end of said period, if any defendant or defendants refuse to obey the order of the court, then the court shall appoint the county auditor as receiver for the copyrighted works and property of defendants tangible or intangible, and of all other effects and monies derived therefrom, and the receiver shall take over and preserve the commercial rights to all of said copyrighted works, together with such other property of any defendant, combination, pool, corporation, or entity through which they are acting, that he can locate within the Commonwealth and the receiver shall administer the same under the direction of the court, and said receivership shall be considered only as an incident to the main injunction suit of the prosecutor, and for the purpose of enforcing the court's orders; the said receiver

shall seize the copyrighted works of all of the copyright holders and owner in said defendant combination, including all of the rights to suits for infringement and damages in both state and Federal courts, and all phases of action, and all sums due on contracts and licenses, and hold the same subject to the order of the court; and all persons holding licenses or contracts with any defendant combination or entity, shall pay the fees and sums due thereon to the receiver for such time as the court may need to effectuate the provisions of this act, and to compel any defendant to abide herewith: Provided, Any sums paid on licenses violating this act shall only be continued in the court's discretion or until such time as the court can award defendants complete and full due process of law before entering a final order thereon, or until such time as a legal and equitable system of licensing can be determined according to the subsequent provisions of this act: Provided, further, In the event defendant or defendants attempt to withdraw their said copyright works or property from the Commonwealth in order to violate and render this act or the court's orders ineffectual, or to deprive the citizens of this Commonwealth of such commodity, or to hamper the enforcement of any provision of this act, or to injure any citizen or user of music in any way, then the court shall immediately order the receiver to compile a complete list of all of the copyrighted works of said defendants which have been used in this Commonwealth, and the court shall then convene the State Anti-Monopoly Board, as herein now created, consisting of the state treasurer and the state auditor, and said board shall meet in the county where the suit is filed, and the superior judge hearing the cause shall be an advisory member of said board; and said board, of which the state treasurer shall be chairman, shall have only one function, the discouragement of price fixing and monopolies, and the court shall then submit to said board the single question of the establishment of license rates for the use of those copyrighted works controlled by the defendants

so proceeded against; and for the purpose of aiding in the abolition of monopolies and price fixing, and preventing violations of this act, the board shall determine a fair and just rate the receiver should charge for the single and separate public performance profit of each copyrighted work or works of said defendants, on a per piece system of licensing, and the court shall not be deemed thereby to have divested itself of any of its jurisdiction by so doing; after determining such rate, the said Anti-Monopoly Board shall immediately advise the receiver of its findings, and of its fair rate, and the same shall be filed on record in the cause, and the receiver may then, if said finding is approved by the court, issue licenses for the use of said music at such approved rate on a basis of so much money per each time a piece of music is played or used in a public performance for profit; that said property shall be thus administered by the receiver for a period of one year, or until such time as the defendant or the individual copyright owners of any combination so proceeded against take oath that they will abide by the rulings of the court and the provisions of this act; and all fees and funds collected by the receiver shall be turned over to the state treasurer, and no receiver's fees or attorney's fees shall be allowed, and the prosecuting attorney shall be the attorney for the receiver, and the state treasurer shall keep said money in a special and separate fund, subject to the order of the court only for whatever portion thereof that the court may order used to defray the actual expenses of the board and the receivership; at the end of one year, if the defendants and copyright holders and owners in any combination thus proceeded against, continue to wilfully disobey the court's orders, then the court shall issue an order, which shall be published in three public places, to the effect that unless the defendants obey all of the orders of the court within ten days from the date of said order, that the court will proceed to permanently deprive said defendants and each of them of their property and the court shall then order said defendants to show

cause within ten days why they should not be involuntarily compelled to assign all of their copyrighted works to the receiver forthwith, and to show cause why all of the funds as collected in the manner aforesaid from licenses, together with all of the copyright works, including the performing rights thereto of said defendants and members of said combine, should not escheat and be forfeited forever to the Commonwealth of Kentucky, and be subject thereafter to administration by the Commonwealth in the same manner as all other personal property belonging to the Commonwealth of Kentucky, if any of said defendants and copyright holders, or owners, do appear before the end of said ten day period, and take oath that they will abide by the future orders of the court and the provisions of this act, then the court shall release their copyrighted works and order the state treasurer to return any and all of their money which has been received or seized: Provided, however, The court shall retain such jurisdiction over their persons for such time as the court may deem necessary to insure strict compliance with the terms of the court's judgement and the provisions of this act; if any of said defendants or copyright owners or holders shall ignore or refuse to show cause order, as aforesaid, or fail to appear at the end of ten days as ordered and abide by the court's judgment, then the court shall make an order and enter judgment to the effect that all of the copyrighted works, including the performing rights thereto, of said defendants and the members of any defendant combination, shall be construed as having been escheated and forfeited to the Commonwealth of Kentucky, and the court shall thereupon appoint some officer of the court to execute an involuntary assignment of all the legal and equitable titles to all of the copyrighted works of each of said defendants and members of any defendant combination to the receiver, in the event the defendants or any of the members fail to execute a voluntary assignment, and the receiver shall immediately file said involuntary assignment at the United States Copy-

right Office at Washington, D. C.; and the court shall then order the receiver to close the estate, and turn the titles to said copyrighted works over by proper assignment from the receiver to the state treasurer of the Commonwealth of Kentucky, who shall thereafter administer, issue licenses for the use of the same in a manner consistent with this act, and conserve the same as state personal property in his possession, and according to law, and any funds left in the state treasury from said receivership shall escheat and be forfeited to the state and become part of the general fund; Provided, further, The state treasurer shall make a report to the Legislature on each biennium of the amount of money received from such licensing and the amount of property he has on hand through the enforcement of this act.

§ 9. That in the event any person, or any of the defendants, non-residents, or non-resident copyright owners or holders, are proceeded against as herein outlined, and are served with process according to law, or any non-resident is served with process as outlined in the preceding sections of this act, and if any of said defendants, or persons, or aiders and abettors named as defendants, appear in any such proceeding by counsel or otherwise, or institute any special proceeding attacking such proceeding, or make any motion therein, either special or general, or if any of them appear to obtain the judgment of the court solely upon the sufficiency of the service of the process upon them, or upon any phase or particularity of said injunction proceedings, such special proceeding or appearance, or motion, or appearance, as the case may be, shall nevertheless be deemed as a general appearance even though the process may have been insufficient, and said parties and defendants as may thus appear in the action, for any reason or cause, whether they seek special or affirmative relief, shall thereafter be subject to the general orders and jurisdiction of the court for all purposes, and if any of said defendants or persons appear in any court proceeding instituted to effectuate this act solely for the purpose of chal-

lenging the validity of service of process upon them they shall be deemed to have surrendered themselves and as having submitted to the general jurisdiction of the court: Provided, however, This section shall not be construed as denying, and no attempt shall be made at any time in any proceeding in connection with the enforcement of this act, to restrain or deny any of said defendants, resident or non-resident, copyright holders or owners, or any person, or members of and defendant combination, entity, pool, or monopoly of their rights or property without full and complete due process of law.

§ 10. Every person, in addition to the other penalties provided in this act, who violates or who procures, or aids and abets in the violating of any provision of this act, or who conspires to render ineffectual any valid order or decision of any court in the enforcement of this act, or who procures, conspires with, or aids or abets any person or persons in his or their failure to obey the provisions of this act, or to render ineffectual any valid order of any court in connection with the enforcement of this act shall be deemed guilty of a gross misdemeanor, and upon conviction, shall be punished by a fine not exceeding five hundred dollars ($500), or imprisonment in the county jail for not more than six month(s), or both such fine and imprisonment.

§ 11. In the event more than one injunction suit provided for in this act is instituted in this Commonwealth, in different counties by different prosecuting attorneys, but against the same defendants, the respective circuit court judges hearing the causes may issue orders against said defendants in any county, but in the event any of the various county proceedings enter into the state of receivership, as herein provided, then the judges hearing the respective causes shall order those causes where the defendants are the same to be consolidated in the action in one particular county, and in such county as the judges may decide, to the end that

only one receiver may be appointed for the entire Commonwealth for the property of the same defendant or defendants.

By same.

H. B. 5. An Act repealing Chapter 120 of the Kentucky Acts, Regular Session, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 120 of the Acts of the Regular Session of the General Assembly, 1938, entitled, "An Act to prevent the spread of venereal diseases through marriage and to provide for an antenuptial physical examination to determine the presence of venereal and to provide a penalty for the violation of the provisions of this Act,"—being Sections 1, 2, 3 and 4 of said chapter, are hereby repealed in their entirety.

By same.

H. B. 6. An Act repealing Chapter 55 of the Kentucky Acts, regular Session, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 55 of the Acts of the Regular Session of the General Assembly, 1938, entitled, "An Act relating to the sale, control, and licensing of the sale of appliances, drugs and medicinal preparations intended or having special utility for the prevention of venereal diseases,"—being Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of said chapter, are hereby repealed in their entirety.

By same.

H. B. 7. AN ACT amending the Constitution of the Commonwealth of Kentucky, relating to assistance to the aged, to the blind, and to dependent children, and to other assistance in cooperation with the federal government under the Social Security Act and acts amendatory thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the concurrence of three-fifths of all the members elected to each house of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full on their respective journals, that there be and it is hereby adopted an amendment to the Constitution of Kentucky, which shall read as follows: The General Assembly shall provide by law for assistance to the aged, to the blind, and to dependent children, and for other assistance in cooperation with the federal government under the Social Security Act and acts amendatory thereto.

§ 2. This amendment shall be submitted to the voters of the State for their ratification or rejection at the time and in the manner provided for under Section 256 of the Constitution of Kentucky under Section 1459 of Baldwin's Revised Edition of Carroll's Statutes, 1930 Official Edition.

By same.

H. B. 8. An Act to promote the public welfare by providing aid to the needy destitute blind.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act: "State Depart-

ment'' means the State Department of Public Welfare created by the Governmental Reorganization Act of 1936.

''Division'' means the Division of Public Assistance in the State Department of Public Welfare.

''Applicant'' means a person who has applied for assistance under this Act.

''Recipient'' means a person who has received assistance under the terms of this Act.

''Ophthalmologist'' means a physician licensed to practice medicine in this State and who is actively engaged in the treatment of diseases of human eye.

''Assistance'' means money payments to blind persons in need.

''Supplementary Services'' means services other than money payments to blind persons in need, including payments toward the funeral expenses of such persons as provided in this Act.

§ 2. *Eligibility for assistance to the needy blind.* Assistance shall be granted under this Act to any destitute person who:

(a) Has no vision or whose vision, with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential;

(b) Has income or other resources which, with contributions, money substance, or service from relatives or others, including adult children under K. S. 331F, is inadequate to provide a reasonable subsistance compatible with health and well-being;

(c) Is not at the time of receiving assistance an inmate of any public or private institution of a custodial or eleemosynary nature, except in the case of temporary medical or surgical care in a hospital. An inmate of such institution may, however, make application for such assistance but the assistance, if granted, shall not begin until after he ceases to be inmate;

(d) Is a citizen of the United States;

(e) Has been a resident of Kentucky for one year continuously preceding the date of application for blind assistance and for at least five of the nine years immediately preceding the application;

(f) Does not, during the period of receiving assistance, solicit alms;

(g) Has attained the age of 16 years;

(h) Is not receiving old-age assistance;

(i) Has not made an assignment for transfer of property for the purpose of rendering himself eligible for assistance under this Act at any time within two years, immediately prior to the filing of application for assistance pursuant to the provisions of this Act.

§ 3. *Amount of assistance.* The amount of assistance which any person shall receive, shall be determined by the Division with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and shall be sufficient, when added to all other income, resources, and support of the recipient, to provide such person with a reasonable subsistence compatible with health and well-being.

§ 4. *Duties of the Division of Public Assistance.* The Division, subject to review by the State Department, shall:

(a) Administer assistance to the needy and destitute blind under this Act. The Director of the Division shall appoint such assistants, field investigators, and clerical help as are necessary to properly administer this Act; and he shall fix the terms of employment and the compensation of such appointees; provided that such appointments, terms and salaries shall be subject to the approval of the Governor;

(b) Make such rules and regulations and take such action as may be necessary or desirable for carrying out the provisions of this Act;

(c) In cooperation with and with the approval of the State Department of Public Health, designate the procedure to be followed in securing a competent medical examination for the purpose of determining blindness in the individual applicant for assistance;

(d) In cooperation with the Division of Personnel Efficiency of the State Department of Finance, establish minimum standards for personnel employed in the administration of this Act and make necessary rules and regulations to maintain such standards;

(e) Cooperate with the Federal Government in matters of mutual concern pertaining to assistance to the needy blind, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such assistance;

(f) Make such reports, in such form and containing such information, as the Federal Government may from time to time require and comply with such provisions as the Federal Government may from time to time find necessary to secure the correctness and verification of such reports;

(g) Publish an annual report and such interim reports as may be necessary;

(h) Promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for assistance under this Act;

(i) With the approval of the State Department of Public Health, designate a suitable number of opthalmologists, duly licensed to practice medicine in the Commonwealth of Kentucky and actively engaged in the treatment of diseases of the human eye, to examine applicants and recipients of assistance to the blind;

(j) In cooperation with the State Department of Public Health, arrange for free examination of applicants by fixing and paying fees to designated opthalmologists or otherwise;

(k) Develop or cooperate with other public and private agencies in developing measures for the prevention of blindness, the restoration of eyesight, and the vocational adjustment of blind persons.

§ 5. *Application for assistance.* Application for assistance under this Act shall be made to the nearest district office of the Division. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the Division. Such application shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which he may have at the time of the filing of the application, and such other information as may be required by the Division.

§ 6. *Investigation of applications.* Whenever the Division receives an application for assistance under this Act, an investigation and record shall promptly be made of the circumstances of the applicant in order to ascertain the facts supporting the application. The Director of Public Assistance and all official representatives and field investigators of the Division are hereby authorized and empowered to administer oath to any person questioned for the purpose of determining the eligibility for assistance of any applicant and to properly acknowledge all liens or other documents necessitating acknowledgments and needed for the administration of this Act.

§ 7. *Examination by ophthalmologist.* No application shall be approved until the applicant has been examined by an opthalmologist designated or approved by the Division to make such examinations. The examining opthalmologist shall certify in writing upon forms provided by the Division the findings of the examination.

§ 8. *Granting of assistance.* Upon the completion of such investigation the Division shall decide whether the applicant is eligible for assistance under the provisions of this Act, and determine the amount of such assistance and the

date on which such assistance shall begin. The Division shall notify the applicant of its decision. Such assistance shall be paid monthly to the applicant upon order of the State Department.

§ 9. *Assistance not assignable.* Assistance granted under this Act shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under this Act shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law.

§ 10. *Appeal to the Division.* If any applicant is denied blind assistance in whole or in part, or if any award of assistance is modified or cancelled under any provision of this Act, the applicant or recipient may appeal to the Division in the manner and form prescribed by the rules and regulations of the Division. The Division shall, upon receipt of such an appeal, give the applicant or recipient reasonable notice and opportunity for a fair hearing.

§ 11. *Periodic reconsideration and changes in amount of assistance.* All assistance grants made under this Act shall be reconsidered by the Division as frequently as it may deem necessary. After such further investigation as the Division may deem necessary, the amount of assistance may be changed or assistance may be entirely withdrawn if the Division finds that the recipient's circumstances have altered sufficiently to warrant such action.

§ 12. *Re-examination as to eyesight.* A recipient shall submit to a re-examination as to his eyesight when required to do so by the Division. He shall also furnish any information required by the Division.

§ 13. *Expenses for treatment.* On the basis of the findings of the ophthalmologist's examination as provided in Section 8 of this Act supplementary services may be provided by the Division to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eye-

sight whether or not he is blind as defined in Section 2 of this Act if he is otherwise qualified for assistance under this Act. The supplementary services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the Division with the approval of the State Department of Public Health provided that no such expenses shall be paid if they can be secured for the applicant through any other public or private agency or person.

§ 14. *Recovery from a recipient.* If at any time during the continuance of assistance the recipient thereof becomes possessed of any property or income in excess of the amount stated in the application provided for in Section 5 of this Act, it shall be the duty of the recipient immediately to notify the Division of the receipt or possession of such property or income and the Division may, after investigation, either cancel the assistance or alter the amount thereof in accordance with the circumstances. Any assistance paid after the recipient has come into possession of such property or income and in excess of his need shall be recoverable by the State as a debt due to the State.

§ 15. *Fraudulent acts.* Whoever knowingly obtains, or attempts to obtain, or aids, or abets any person to obtain by means of a wilfully false statement or representation or by impersonation, or other fraudulent device, assistance to which he is not entitled, assistance greater than that to which he is justly entitled, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $50.00 nor more than $500.00 or be imprisoned for not less than 30 days nor more than 6 months, or be both so fined and imprisoned in the discretion of the court. In assessing the penalty the court shall take into consideration, among other factors, the amount of money fraudulently received.

§ 16. *Limitations of Act.* All assistance granted under this Act shall be deemed to be granted and to be held subject

to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing Act.

§ 17. *Short Title.* This Act may be cited as the "Aid to the needy Blind Act."

§ 18. *Effective Date.* This Act shall take effect on July 1, 1938.

§ 19. *Repeal of existing laws.* All laws or parts of laws in conflict herewith are hereby repealed.

§ 20. *Separability clause.* If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be effected thereby.

By Mr. Swope.

H. B. 9. An Act to regulate dealers in poultry or meat.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. No dealer in poultry or meat shall purchase any poultry or meat without registering annually with the county court clerk, who shall record the name and business address of each dealer in a permanent record book.

§ 2. Every dealer shall keep a record in a permanent form of all purchases of poultry or meat made by him showing in detail the place and date of purchase, the name, age, weight, height, and address of the person from whom the purchase was made, and a general description of the kind of poultry or meat purchased. The record shall at all reasonable times be open to the inspection of any public officer when in the discharge of his duties.

§ 3. Any person violating this act shall, for the first offense, be punished by fine of not less than ten dollars nor more than one hundred dollars, and for each subsequent offense by fine of not less than twenty-five dollars nor more than five hundred dollars or imprisonment in the county jail not more than sixty days, or both.

§ 4. Any person who gives falsely the information required by this act to be given the dealer shall be imprisoned in the county jail not less than thirty days nor more than six months.

By Mr. Hamilton.

H. B. 10. An Act to repeal, amend and re-enact Section 2 of Chapter 5 of the Acts of the General Assembly, 1936 regular session.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 2 of Chapter 5 of the acts of the General Assembly, 1936 Regular Session, be and the same is hereby repealed, amended and re-enacted said section shall read as follows:

The State Highway Commission, as soon as practical after April first, 1936, shall allocate, set apart and include in its budget the sum of Two Million ($2,000,000.00) dollars for each fiscal year to be used for purposes set forth in Section 1 of this Act. Said sum shall be apportioned to each of the Counties of this Commonwealth on the following basis:

One half shall be apportioned among the several Counties on the basis of the ratio which the square mile area of a County bears to the total square mile area of this Commonwealth, and one half shall be apportioned to the Counties regarding their total unimproved road mileage.

By same.

H. B. 11. An Act to repeal, amend and re-enact Section 3766bb-2 Kentucky Statutes, Carroll's 1936 Edition, changing amount allowed for Old Age Assistance and repealing Section 3766bb-11, Kentucky Statutes, Carroll's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 3766bb-2, Kentucky Statutes, Carroll's 1936 Edition, be and the same is hereby repealed, amended and re-enacted and when so amended and re-enacted shall read as follows:

§ 1. It shall be the duty of the State agency administering this Act to provide a reasonable subsistence for those eligible for old age assistance under this Act. The amount of old age assistance to any such person shall be determined by the State agency with due regard to the conditions existing in each case, subject to the rules, regulations and standards to be set up by the State agency and approved by the Department of Public Welfare; but the amount awarded to any individual shall not exceed the sum of Thirty Dollars ($30.00) per month to any individual.

§ 2. That Section 3766-bb-11 Kentucky Statutes, Carroll's 1936 Edition, be, and the same is hereby repealed.

This Act shall become effective on and after July 1st, 1940.

All Acts and parts of Acts in conflict herewith are hereby repealed.

By Mr. Bronston.

H. B. 12. An Act relating to and fixing the compensation of County Judges and Special Commissioners for mak-

ing settlements with personal representatives, trustees, assignees, committees, curators and guardians in their county.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

For his services in making settlements with personal representatives, trustees, assignees, committees, curators and guardians, the county judge or special commissioner, if one be appointed, shall be paid by the fiduciary out of the estate in his hands as follows:

Where the receipts and disbursements or the inventory and appraisal if distribution is omitted or made in kind does not exceed Five Thousand ($5,000.00) Dollars, Five ($5.00) Dollars;

Where the amount is more than Five Thousand ($5,000.00) Dollars, but does not exceed Fifty Thousand ($50,000) Dollars, one tenth of one percent;

Where the amount is more than Fifty Thousand ($50,000) Dollars, one tenth of one percent on the first fifty thousand, and one twentieth of one percent on the excess.

All laws and parts of laws in conflict with the provisions of this act, are hereby repealed.

By Mr. W. K. King.

H. B. 13. An Act to amend and re-enact Section 244, Kentucky Criminal Code of Practice, relating to the keeping together and separation of jurors.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 244 of Carroll's Kentucky Criminal Code, Edition of 1932, be amended by adding subsection 2 as follows: "On the trial of crimes which are or may be punished capitally or by life imprisonment the jurors, before the case

is submitted to them, may be permitted to separate by agreement of the attorney for the Commonwealth and the attorney for the defendant, with the approval of the trial judge, which shall be in open court and entered of record; provided the consent or approval may be withdrawn before any recess or adjournment of court,'' so that as amended and re-enacted said Section shall read as follows:

Section 244-1. CASES IN WHICH JURY MUST BE KEPT TOGETHER. On the trial of offenses which are or may be punished capitally or by life imprisonment the jurors after they are accepted, if all of the same sex, shall not be permitted to separate, but shall be kept together, in charge of the proper officers. But if the jury consists of both male and female, then the sexes of such jury may be permitted to separate during the trial and when necessary after final submission of the case, each sex, being kept together in charge of an officer of like sex, as if two separate juries. On the trial of other felonies the jurors, before the case is submitted to them, may be permitted to separate in the discretion of the court, but after the case is submitted they shall be kept together in charge of officers. On the trial of misdemeanors the jurors may be permitted to separate, or the court may order them to be kept together.

Section 244-2. SEPARATION BY AGREEMENT. On the trial of crimes which are or may be punished capitally or by life imprisonment the jurors, before the case is submitted to them, may be permitted to separate by agreement of the attorney for the Commonwealth and the attorney for the defendant, with the approval of the trial judge, which shall be in open court and entered of record; provided the consent or approval may be withdrawn before any recess or adjournment of court.

By Mr. Henry Stewart.

H. B. 14. AN ACT to repeal, amend and re-enact Section

fifty-four (54), and fifty-six (56), Chapter one hundred and seven (107), of the Acts of the Regular Session of the 1938 General Assembly, being entitled: "An Act concerning wild animals, wild birds and fish; and repeal Section one thousand eight hundred-ninety-three-b1 (1893-b 1) to one thousand nine hundred-and five-7 (1905-7) inclusive, Section one thousand-nine-hundred-thirty-eight a 1 (1938-a1) to one thousand nine hundred-fifty-four-twenty one (1954-21) inclusive, and Sections one thousand nine hundred-fifty four c one (1954-c 1) to one thousand nine hundred fifty-four c sixty-nine (1954-c 69) inclusive," said Sections now being codified as Sections 1954 d-54 and 1954d-57 of Carroll's Kentucky Statutes, April 1939 Supplement, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section fifty-four (54) of Chapter one hundred and seven (107) of the Acts of the Regular Session of the 1938 General Assembly, being entitled "An Act concerning wild animals, wild birds and fish; and repealing Section one thousand eight hundred ninety-three b one (1893-b-1) to one thousand nine hundred and five-seven (1905-7) inclusive, Sections one thousand nine hundred thirty-eight a one (1938a-1) to one thousand nine hundred fifty-four-twenty one (1954-21) inclusive, and Sections one thousand nine hundred fifty-four c one (1954c-1) to one thousand nine hundred fifty-four c sixty nine (1954c-69) inclusive," said Sections being now codified as Section 1954d-54 of Carroll's Kentucky Statutes, April 1939 Supplement to Baldwin's Edition of 1936 reading as follows:

"Any person who takes or has in his possession in this State any wild birds except during the open season for a particular species, to be as follows:

Quail or bob white	Nov. 24th to Jany. 9th.
Mourning doves	Sept. 1st. to Oct. 31st.
Wood cock	Nov. 25th to Dec. 15th.

Snipe ..... No open season.
Roughed Grouse ..... No open season.
Wild turkey ..... No open season.
Hungarian Partridge ..... No open season.
Ring necked pheasant ..... No open season.

Wild birds subject to the provisions of the "Migratory Bird Treaty Act" other than those specifically provided for herein.

The season shall be the same as is provided by regulations of the Secretary of Agriculture under the "Migratory Bird Treaty Act". Except that wild birds legally taken may be possessed for ten days immediately succeeding such open season.

Shall be guilty of a misdemeanor and upon conviction thereof before a court of competent jurisdiction shall be fined not less than fifteen ($15.00) and not more than one hundred ($100.00) dollars for each offense."

Be and the same is hereby repealed, amended, and re-enacted so that as amended and re-enacted it shall read as follows:

"Any person who takes or has in his possession in this State any wild birds except during the open season for a particular species, to be as follows:

Quail or bob white ..... Nov. 15th to December 15th.
Mourning doves ..... Sept. 1st. to Oct. 31st.
Woodcook ..... Nov. 25th to Dec. 15th.
Snipe ..... No open season.
Roughed grouse ..... No open season.
Wild turkey ..... No open season.
Hungarian partridge ..... No open season.
Ring necked pheasant ..... No open season.

Wild birds subject to the provisions of the "Migratory Bird Treaty Act" other than those specifically provided for herein.

The season shall be the same as is provided by regulations of the Secretary of Agriculture under the "Migratory Bird Treaty Act". Except that wild birds legally taken may be possessed for ten days immediately succeeding such open season.

Shall be guilty of a misdemeanor and upon conviction thereof before a court of competent jurisdiction shall be fined not less than fifteen ($15.00) and not more than one hundred ($100.00) dollars for each offense."

§ 2. That Section fifty-six (56) of Chapter one hundred and seven (107), of the Acts of the Regular Session of the 1938 General Assembly being entitled "Any person who takes or has in his possession in this State any wild animal protected by this Act, except during the open season, for the particular species provided herein shall be guilty of a misdemeanor and upon conviction therefor before a Court of competent jurisdiction shall be fined not less than fifteen ($15.00) and not more than one hundred ($100.00) dollars for each offense. Said open seasons are as follows:

Mink, opossum, raccoon, red fox, skunk and muskrat, Nov. 1st to Dec. 31st.

Otter and beaver, No open season.

Squirrel, July 1st. to Oct. 1st.

Rabbits, Nov. 24th to Jan. 9th."

Be and the same is hereby repealed, amended, and re-enacted so that as amended and re-enacted it shall read as follows:

"Any person who takes or has in his possession in this State any wild animal protected by this Act, except during the open season, for the particular species provided herein shall be guilty of a misdemeanor and upon conviction therefor before a court of competent jurisdiction shall be fined not less than fifteen ($15.00) and not more than one hundred ($100.00) dollars for each offense. Said open seasons are as follows:

Mink, opossum, raccoon, red fox, skunk and muskrat, Nov. 1st. to Dec. 31st.

Otter and beaver, No open season.

Squirrel, Sept. 1st. to Sept. 30th, inclusive.

Rabbits, Nov. 15th to Dec. 31st, inclusive."

WHEREAS, a great hardship has been placed upon sportsmen and others interested in the propagation of Bob White and quail in that the season has been too long and extends too far into the cold weather, and therefore it is deemed expedient that the amends as above set out be enacted.

By Mr. Howard.

H. B. 15. AN ACT to amend the Constitution of the Commonwealth of Kentucky so as to change the times for the election of members of the House of Representatives, Senators, Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, Superintendent of Public Instruction, Commissioner of Agriculture, Labor and Statistics, Clerk of the Court of Appeals, Circuit Judges, Commonwealth's Attorneys, Clerks of Circuit Courts, Judges of the County Courts, County Court Clerks, County Attorneys, Sheriffs Jailers, County Commissioners, Surveyors, Assessors, Justices of the Peace and Constables so as to reduce the number of elections to be held in the Commonwealth of Kentucky and to fix the times for the meeting of the General Assembly made necessary by the change in the times of the elections of the members thereof:

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Paragraph 1. That upon the concurrence of 3/5 of all members elected to each House of the General Assembly of the Commonwealth of Kentucky, the ayes and nays being taken

thereon and entered in full in their respective journals, the Constitution of the Commonwealth of Kentucky be and it is hereby proposed to be amended by changing and fixing the times for the election of officers as follows:

The times for the election of members of the General Assembly and state, county and district officers hereinafter named are fixed as follows:

Members of the House of Representatives at the general election in 1943 for a term of one year and thereafter at the general election in 1944 and every 2 years thereafter; Members of the Senate from even numbered districts at the general election in 1945 for a term of three years and at the general election in 1948 and every 4 years thereafter; Members of the Senate from the odd numbered districts at the general election in 1943 for a term of three years and thereafter at the general election in 1946 and every 4 years thereafter; Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, Superintendent of Public Instruction, Commissioner of Agriculture, Labor and Statistics, Clerk of the Court of Appeals at the general election in 1943 for terms of three years each and at the general election in 1946 and every 4 years thereafter; Circuit Judges, Commonwealth's Attorneys and Clerks of Circuit Courts at the general election in 1946 and every 6 years thereafter; Judges of the County Courts, County Court Clerks, County Attorneys, Sheriffs, Jailers, County Commissioners, Surveyors and Assessors at the general election in 1945 for a term of three years each, and at the general election in 1948 and every 4 years thereafter.

Paragraph 2. There shall be no election of Circuit Judges, Commonwealth's Attorneys or Circuit Court Clerks in the year 1945.

Paragraph 3. Because of the change in the dates of the election of members of the General Assembly herein provided for, the General Assembly shall meet on the first Tuesday after

the first Monday in January, 1945, and thereafter on the same day every second year.

Paragraph 4. This amendment shall be published and submitted to the voters of the state for their ratification or rejection at the time and in the manner provided under sections 256 and 257 of the Constitution and Section 1459 of Baldwin's Revised Edition of Carroll's Kentucky Statutes.

By same.

H. B. 16. AN ACT to amend section 5 of the Excise Tax Act of 1936 in its relation to gasoline tax section 4281g-1 et seq. of Carroll's Kentucky Statutes same being an act of the Kentucky Legislature at its extraordinary revenue session of 1936 regulating gasoline tax.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That hereafter, or as soon as practical after April 1, 1940, and the passing of this amendment that all gasoline or motor fuel used by farmer consumers on the farm or for agricultural purposes shall be exempt from the 5c per gallon excise tax as it is now set up in section 4281g-2 of Carroll's Kentucky Statutes:

The purpose of this amendment is to relieve from taxation gasoline consumed in actual farm operation and shall in no way be construed to relieve from taxation gasoline consumed upon the public highway other than transportation of farming equipment from one location to another where such equipment is moved from one location where it is being used for agricultural purposes to another location where it is to be used for like and similar purpose nor shall it in any way be construed to allow persons engaged in agricultural pursuit to consume tax free gasoline in any form of transportation whether it be for pleasure, or for the transportation of farm produce, equipment, live stock or otherwise.

Gasoline so purchased by a person for agricultural purposes shall be delivered to him either in his equipment or in tanks and the quantity thereof shall be receipted for by the purchaser to the seller and shall be signed both by the vendor and the vendee. Said receipt shall be kept by the vendor subject to an inspection by a representative of the State Treasury at any time and such receipts shall be used by the vendor for the purpose of recovering from the State Treasury the tax previously paid upon the gasoline which is thereafter sold for the purpose above set out.

Any person found guilty of procuring gasoline tax free for the purpose herein above set out and who shall thereafter use same for purpose or purposes other than is herein described shall be guilty of a misdemeanor and shall be punished by a fine of not less than $100.00 or more than $1,000.00 or confined in the county jail for not less than thirty days nor more than one year or both so fined and imprisoned in the discretion of the jury; each day or part thereof that a person should be found guilty of violating the above shall constitute a separate offense within the meaning of this act.

By same.

H. B. 17. An Act to amend and re-enact Section 4308-2 of Carroll's Kentucky Statutes same being An Act of the Kentucky Legislature at its regular session, 1936 and being Section 2 of chapter 5 at page 26 of the Acts of said legislature regulating a distribution of rural highway funds.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The State Highway Commission as soon as practical after April 1, 1940, and the passing of this amendment shall allocate, set apart and include in its budget the sum of two million dollars for each fiscal year to be used for the purpose

set forth in Section 1 of this act. Said sum shall be apportioned to each of the several counties of this Commonwealth on the following basis: one half of the sum allocated shall be apportioned equally between the one hundred and twenty counties and one half of the sum allocated shall be apportioned among the several counties on the basis of the ratio which the square mile area of the county bears to the total of the square mile area of this Commonwealth. The amount so apportioned to each county subject to the conditions and restrictions imposed by this act shall be expended by the Highway Commissioner in that county for the maintenance, reconstruction and improvement of the county roads and bridges which have not been accepted by the State Highway Commission for maintenance as a part of the state road system.

WHEREAS, it is deemed important by the General Assembly that the proceeds to the counties for which this act provides should be made available promptly in order to enable the State Highway Commission and the fiscal court of the respective counties to make plans and agreements for the next ensuing fiscal year, an emergency is hereby declared to exist and this act shall become effective immediately upon its passage and approval by the Governor.

By same.

H. B. 18. An Act regulating the relation between owners and operators of motor vehicles and certain passengers therein.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any person who becomes a passenger in any motor vehicle without paying compensation for his or her transportation thereby covenants and agrees to and with the owner and

operator that he or she shall not sue said owner and operator, or either of them, for any injuries or damages sustained in any accident involving said motor vehicle, unless said passenger when entering said vehicle shall inform the operator thereof that said passenger does not so covenant or agree with said owner and operator.

All laws in conflict herewith are hereby repealed.

By Mr. Randolph A. Brown.

H. B. 19. An Act to repeal Section 574 of the Code of Practice in civil cases, Carroll's Civil code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 574 of the Code of Practice in civil cases, being Carroll's Civil Code of Practice, Baldwin's 1932 Edition, be and the same is hereby repealed.

By same.

H. B. 20. An Act to amend and re-enact Sections 317, 326, 327, 328 of the Civil Code of Practice so as to permit the finding of Special Verdicts by Juries in addition to general or separate-general verdicts.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 317, 326, 327 and 328 of the Civil Code of Practice be, and the same are hereby, amended to read as follows:

Sec. 317. When the jury has been sworn, the trial shall proceed in the following order, unless the court, for special reasons, otherwise directs:

1. The plaintiff must briefly state his claim and the evidence by which he expects to sustain it.

2. The defendant must then briefly state his defense and the evidence he expects to offer in support of it.

3. The party on whom rests the burden of proof, in the whole action, must first produce his evidence; the adverse party will then produce his evidence.

4. The parties will then be confined to rebutting evidence, unless the court, for good reasons in furtherance of justice, permits them to offer evidence in chief.

5. When the evidence is concluded, but before the argument to the jury, either party may require the court to direct the jury to find a separate-general verdict, or the court, in its discretion, may, without motion or upon motion of a party require the jury to find a special verdict upon any material issue or issues of fact. If a special verdict be so required, the questions of law may be reserved by the court until after verdict, but if a general verdict be required, either party may ask written instructions to the jury on points of law, which shall be given or refused by the court before the commencement of the argument to the jury.

6. The parties may then submit or argue the case to the jury. In the argument, the party having the burden of proof shall have the conclusion and the adverse party the opening. If there be more than one speech on either side, or if several defendants having separate defenses appear by different counsel, the court shall arrange the relative order of argument.

Sec. 326. The verdict of a jury is general or separate-general or special.

1. A general verdict is that by which the jury pronounces

generally, upon all the issues, for the plaintiff or for the defendant.

2. A separate-general verdict is the finding, upon any of the issues, in favor of the plaintiff or of the defendant.

3. A special verdict is the finding of facts by a jury, as shown in their answers to questions submitted to them in writing by the court.

Sec. 327. Unless otherwise directed, the jury may find a general, or a general and separate-general, verdict, or a special verdict, with or without a general, or a separate-general verdict; but the court may without motion, or upon the motion of a party shall, direct the jury to find:

1. A separate-general verdict, as to any issue; and with such finding the jury shall also return a general verdict; and, if the separate-general verdict be inconsistent with the general verdict, judgment shall be rendered pursuant to the former; or,

2. A special verdict; and, on such finding, the jury shall return a special verdict only; and the court shall render judgment upon it.

Sec. 328. If a general and a special verdict be inconsistent, judgment shall be rendered pursuant to the latter.

By Mr. Shaikun.

H. B. 21. An Act to amend and re-enact Section 514 of the Civil Code of Practice relating to the reversal of judgments by the Court of Appeals.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 514 of Carroll's Kentucky Civil Code of Practice, 1932 Edition, be and the same is hereby amended and re-enacted, so that as so amended and re-enacted the same shall be as follows:

Section 514. Court of Appeals may, for errors in record. A judgment may be reversed or modified by the Court of Appeals for errors appearing in the record. If error exists only in respect of one or more of several issues, such as in the assessment of damages, and the trial was otherwise free from substantial error, the Court of Appeals may limit its reversal of the judgment and may confine the new trial to those issues in respect of which the error was made, if the court be of opinion that such restriction is compatible with justice.

By same.

H. B. 22. An Act to provide that the accused in criminal action where the punishment may be by imprisonment may demand a trial by jury.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. In all criminal prosecutions in any court of this Commonwealth where the punishment may be by any imprisonment, the accused shall enjoy the right to a speedy and public trial by an impartial jury in the number and manner provided in Chapter 210 of the Acts of the 1893 General Assembly of the Commonwealth of Kentucky (Section 2252, Carroll's Kentucky Statutes, 1936 Edition).

By Mr. Anderson.

H. B. 23. AN ACT providing for the legalizing and licensing and regulation of establishments wherein bets or wagers may be made or placed on horse races run at recognized and legal race courses: Providing for annual license taxes on such establishments and providing penalties for

violation of any of the provisions of this act and repealing all other laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any person, firm or corporation shall have the power and right, subject to the provisions of this act, to set up, maintain and operate an establishment for the purpose of taking or placing wagers or bets on horse races to be run at any or all legalized race courses; said establishments or places where bets or wagers are placed on horse races shall be known as hand books, within the provisions of this act.

ARTICLE 2. Every person, firm or corporation proposing to engage in the business of operating hand books, within the provisions of this act shall obtain from the State Tax Commission a license to engage in the business of operating a hand book. For the privilege of setting up, maintaining or operating a hand book within this state such operator or operators shall first be required before such time as any bets or wagers on any horse races are taken, received or placed by such hand book to purchase and procure the license hereinbefore set out and to pay therefor the sum of $500.00.

ARTICLE 3. All licenses issued by the said State Tax Commission shall extend for the period of one year and at the expiration shall be renewed upon the same terms and conditions under which the original license was issued.

ARTICLE 4. All payments made for licenses hereunder shall be made to the State Tax Commission, payable to the State Treasurer and all monies derived from the provisions of this act shall go and be credited to the General Expenditure Fund.

ARTICLE 5. Any person, firm or corporation may apply to the State Tax Commission for a license to set up, maintain or operate a hand book under the provisions of this

act. Such application shall be in writing and verified and shall set forth in detail such information concerning the applicant for said license and the premises to be used therefor as the State Tax Commission shall require. The State Tax Commission is hereby vested with the power to determine whether or not the person, firm or corporation so applying for said license is a suitable person to operate a hand book and of good moral character. In the event that said State Tax Commission shall refuse to issue said license they shall at once return to the applicant any sum paid for said license and return his application.

ARTICLE 6. The State Tax Commission is hereby authorized to make all necessary rules and regulations for the conduct and operation of hand books as herein set out and may revoke or refuse licenses for the violation of any of the provisions of this act or for other reasons which they deem sufficient.

ARTICLE 7. Any person, firm or corporation who shall engage in the business of setting up, maintaining or operating a hand book within the meaning of this statute without having first procured said license shall be deemed guilty of a misdemeanor and upon conviction punished by a fine of not less than $1,000.00 or imprisonment in the county jail for a period of not less than ninety days, or both so fined and imprisoned.

ARTICLE 8. It shall not be incumbent upon the Commonwealth to prove that the horse race upon which the bet or wager is made was actually run or that an establishment had been set up for the purpose of receiving, taking or placing bets or wagers. Proof that the bet or wager was made upon what was purported to be a horse race shall be deemed sufficient to establish a prima facie case for the Commonwealth.

ARTICLE 9. All laws or parts of laws are hereby repealed to the extent of such conflict.

ARTICLE 10. Whereas, the present state revenue does not meet the needs for maintenance and development of the state government, and its agencies and the state's credits is threatened with impairment, an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval or non action by the government, as provided by the constitution of Kentucky.

By same.

H. B. 24. AN ACT to repeal, amend and re-enact Sections 2005-1, 2005-2 and 2005-3 of Carroll's Kentucky Statutes, 1936 Edition, and Chapter 53, paragraphs 1, 2 and 3 of the Acts of 1912, providing for increase of compensation of the members of the General Assembly.

Said bill as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The members of the General Assembly of the Upper House (Senate) shall severally receive from the State Treasury compensation for their services, which shall be twenty-five dollars a day during their attendance on, and fifteen cents per mile for the necessary travel in going to and returning from the sessions of the General Assembly.

§ 2. The members of the Lower House (House of Representatives) shall receive the same compensation as provided in Section One above, for their services during their attendance on the sessions of the General Assembly.

§ 3. The President of the Senate, and the Speaker of the House of Representatives shall each receive thirty dollars per day while attending upon the session of their respective bodies.

§ 4. All laws and parts of laws in conflict herewith are hereby repealed.

By same.

H. B. 25. An Act to prohibit discrimination and intimidation on account of race or color in employment under contracts for public buildings or public works in the State of Kentucky and fixing penalties therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That every contract for or on behalf of the State of Kentucky or any of the Cities thereof, for the construction, alteration, or repair of any public building or public work in the State of Kentucky shall contain provisions by which the contractor agrees:

(a) That in the hiring of employees for the performance of work under this contract or any subcontractor hereunder, no contractor, subcontractor, nor any person acting for any contractor, shall, by reason of race or color, discriminate against any citizen of the State of Kentucky who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontrcator, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race or color;

(c) That there may be deducted from the amount payable to the contractor or subcontractor by the State of Kentucky or any city thereof, under this contract, a penalty of Ten Dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this contract; and

(d) That this contract may be cancelled or determined by the State of Kentucky or by any city thereof, and all money

due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract.

By same.

H. B. 26. AN ACT amending the Constitution of the Commonwealth of Kentucky, relating to assistance to the aged, to the blind and to dependent children, and to other assistance in cooperation with the federal government under the Social Security Act and acts amendatory thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the concurrence of three-fifth of all the members elected to each house of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full on their respective journals that there be and it is hereby adopted an amendment to the constitution of Kentucky, which shall read as follows: The General Assembly shall provide by law for assistance to the aged, to the blind, and to dependent children, and for other assistance in cooperation with the federal government under the Social Security Act and acts amendatory thereto.

§ 2. This amendment shall be submitted to the voters of the State for their ratification or rejection at the time and in the manner provided for under Section 256 of the Constitution of Kentucky under Section 1459 of Baldwin's Revised Edition of Carroll's Statutes, 1936 Official Edition.

By same.

H. B. 27. AN ACT to provide old age assistance: to prescribe qualifications and eligibility of persons entitled to same; to provide for the reimbursement by the Federal gov-

ernment of fifty per cent (50%) of all amounts granted and expended under the terms of this Act; to provide for the establishment of a division of public assistance in and by the Department of Public Welfare for the administration of this Act; to provide for the personnel of said division of public assistance and for the salaries thereof; provide for the adjudication of controversial claims arising under this Act in a court of competent jurisdiction; and to provide for the repeal of all laws or parts of laws in conflict herewith; repealing, amending and re-enacting Chapter No. 94 of the Acts of the General Assembly of 1936 being sections 3766 bb-1 to 3766 bb-16 inclusive.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Chapter No. 94 of the Acts of the General Assembly of 1936 is hereby repealed, amended and re-enacted so that when so amended and re-enacted, it shall read as follows to-wit:

§ 1. Persons eligible to receive old age assistance,—Old age assistance shall be given under this Act beginning July one (1), one thousand nine hundred forty, to any person who

(a) Has attained the age of sixty-five (65) years:

(b) Has income which, with contributions, money, subsistence, or service from relatives or others, is inadequate to provide a reasonable subsistence;

(c) Is a citizen of the United States;

(d) Has been a resident of the State of Kentucky for one year continuously preceding the date on which application is made for old age assistance, and for at least five of the nine years immediately preceding his application;

(e) Is not at the time of receiving assistance an inmate of any public or private institution, except in the case of temporary medical or surgical care in a hospital.

(f) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for such assistance, except as hereinafter provided; and

(g) Is not because of his physical or mental condition in need of continued institutional care.

§ 2. Amount of Assistance.—It shall be the duty of the State agency administering this Act to provide a reasonable subsistence for those eligible for old age assistance under this Act. The amount of old age assistance to any such person shall be determined by the State agency, with due regard to the conditions existing in each case, and subject to the rules and regulations and standards to be devised and set up by the Department of Public Welfare; but in no case shall the amount awarded any individual exceed the sum of thirty dollars ($30.00) per month.

§ 3. Application.—Any eligible person may request old age assistance, and he shall make his application to the State agency in writing, upon standard forms prescribed by the agency. An inmate of a public or private institution may make application while in such institution, but the assistance, if granted, shall not be paid the applicant until after he has ceased to be an inmate of such institution.

§ 4. Administration.—There is hereby created in the Department of Public Welfare a division to be known as the division of public assistance, which shall be in charge of and conducted by a director, appointed by the governor of the State for a term of four years, but may be removed by the Governor at any time at his pleasure. The salary of the said director shall be three thousand six hundred dollars ($3,600.00) per annum. The director shall appoint such assistants, investigators, and clerical help as are necessary to properly administer this Act; and he shall fix the terms of employment and the compensation of such appointees; provided, such appointments, terms, and salaries shall be subject to the approval of the Governor. The Department of

Public Welfare shall prescribe the form of, and print and supply the blanks for, applications, reports, affidavits and such other forms as it may deem necessary and advisable. The Department of Public Welfare shall make rules and regulations for determining or establishing the date of birth or age of all applicants for assistance, for determining the need for assistance of all applicants, and for further carrying out the provisions of this Act, and shall determine and fix the amount of assistance to be granted, which in no case shall exceed thirty dollars ($30.00) per month. The amount of assistance granted any applicant may be changed or discontinued at any time upon investigation of the need for such assistance. This Act shall be administered uniformly throughout the State, with due regard for the varying costs of living in different parts of the State; but there shall be no discrimination between applicants as to amounts granted, except as based on the varying costs of living in different parts of the State. The director of the Division of public assistance and all official representatives of the devision are hereby authorized to administer oath to any person questioned for the purpose of determining the eligibility for assistance of applicant.

§ 5. Investigation of applicants.—Whenever an application for old age assistance is received, an investigation and record shall be promptly made of the circumstances of the applicant to ascertain the facts supporting the application and to secure such other information as may be required by the rules and regulations prescribed by the Department of Public Welfare.

§ 6. Granting of assistance.—Upon the completion of such investigation the Department of Public Welfare shall decide whether the applicant is eligible for old age assistance under this Act, the amount of such assistance, and the date on which payment shall begin. It shall notify the applicant, in writing, of the decision regarding his application; and,

if any applicant is denied assistance, or is awarded an amount deemed by him inadequate, or if his assistance be revoked or modified he may appeal to and have a fair hearing before, the division of public assistance. All awards of assistance made by the division of public assistance shall at all times be subject to review by the Department of Public Welfare.

§ 7. Recipient not to receive other public assistance.—No person receiving old age assistance under this Act shall at the same time receive any other relief from the State or from any political subdivision thereof, except for medical and surgical purposes.

§ 8. Payment to individuals found incapable.—The Division of Public Assistance shall provide in its regulations for payments to aged individuals found by a court to be incapable of taking care of his money, so that such assistance shall be used solely for the benefit of such aged persons.

§ 9. Discontinuance of payments.—Payments of assistance granted under this Act shall immediately be ceased for any good or valid cause.

§ 10. Assignment of assistance.—All assistance given under this Act shall be exempt from levy or execution under the laws of the State.

§ 11. Assistance: how paid.—The Department of Public Welfare, on or before the first day of each month, shall certify to the Auditor of Public Accounts the amount due and payable to each person who has been granted old age assistance, and the Auditor shall cause to be issued warrant on the State Treasurer for the amount so certified. All monies awarded and payable under the provisions of this Act shall be paid from funds appropriated by the General Assembly in its biennial appropriation Act. The General Assembly shall also appropriate such sum as it deems necessary for the expenses of administering this Act.

§ 12. Fraudulent acts:—Any person who by means of a willfully false statement or representing, by impersonation,

or other fraudulent device not named herein, obtains, attempts to obtain, or aids or abets any person to obtain:

(a) Assistance to which he is not entitled;

(b) greater assistance than that to which he is justly entitled;

(c) payment of any forfeited installment grant; or

(d) disposal of the property of the recipient of assistance without the consent of the Department of Public Welfare shall be guilty of a misdemeanor, and fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00).

§ 13. Federal participation.—The Department of Public Welfare is hereby authorized and directed to make the Federal Government such reports as may be required of it, and the Department of Public Welfare shall make application to the Federal Government, at such time and in such manner as is prescribed in the Federal Social Security Act and the rules and regulations thereunder, for such amounts of money as are provided in the Social Security Act for aiding states to grant old age assistance. All monies thus received from the Federal Government shall be covered into the State Treasury and used solely for paying of old age assistance except that such amounts as are provided by the Federal Government for the purpose of defraying the expense of carrying out this Act shall be employed and expended solely for that purpose.

§ 14. Provisions severable.—The provisions of this Act are severable. If any provision hereof or the application of any provision to any situation or person is declared unconstitutional or otherwise invalid, such declaration shall not impair the validity or affect the operation of any other provision or of its application.

§ 15. Administration of acknowledgment of documents.—The Director of the Division of Public Assistance and all official representatives and field investigators of

said Division are hereby vested with the powers of notary public when carrying out the provisions of Chapter 94 of the Acts of 1936, and are authorized and empowered to administer oath to any person questioned for the purpose of determining an applicant's eligibility for assistance and to properly acknowledge all liens or other documents necessitating acknowledgments and needed for the administration of Chapter 94 of the Acts of 1936.

§ 16. Repealing clause.—All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Mollette.

H. B. 28. An Act relating to old age assistance, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 3766bb-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The state agency administering this Act shall provide a reasonable subsistence for those eligible for old age assistance. The amount of assistance to any person shall be determined by the state agency, with due regard to the conditions existing in each case, and subject to rules, regulations and standards set up by the Department of Welfare; but in no case shall the amount awarded any individual exceed *thirty* dollars per month.

§ 2. Section 3766bb-4 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

There is created in the Department of Welfare the division of public assistance, which shall be in charge of a director, appointed by the Governor for a term of four years.

The salary of the director shall be three thousand six hundred dollars per annum. The Department of Welfare shall prescribe the form of, and supply, necessary blanks and forms. The Department of Welfare shall make regulations for determining or establishing the date of birth or age of all applicants for assistance, for determining their need for assistance, and for further carrying out the provisions of this Act.

The amount of assistance granted any applicant may be changed or discontinued at any time upon investigation of the need for assistance. This Act shall be administered uniformly throughout the state, and there shall be no discrimination in the amount of assistance awarded different applicants, except as based on the varying costs of living in different parts of the state. The director of the division of public assistance and all official representatives and field investigators of the division may administer oath to any person questioned for the purpose of determining the eligibility for assistance of any applicant, and may take acknowledgments of documents needed for the administration of this Act.

§ 3. Section 3766bb-13 of Carroll's Kentucky Statutes, 1936 edition, amended to read as follows:

Any person who by means of willfully false statement or representation, by impersonation or other fraudulent device, obtains, attempts to obtain, or aids or abets any person to obtain assistance to which he is not entitled, greater assistance than that to which he is entitled, or payment of any forfeited installment grant shall be fined not less than fifty dollars nor more than five hundred dollars.

§ 4. Section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, and Chapters 56, 57 and 58 of the Acts of 1938, compiled as sections 3766bb-11a, 3766bb-11b and 3766bb-17 of Baldwin's Kentucky Statutes Service, May, 1938, are repealed.

§ 5. All liens created and all reimbursement agreements executed pursuant to Chapter 94 of the Acts of 1936, not enforced by Collection at the time this Act takes effect, are void.

§ 6. Since many aged persons are greatly in need of the additional assistance authorized by this Act, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Hunnicutt.

H. B. 29. AN ACT to require the payment of a fee to the Attorney General by each person required by law to register with the Attorney General as a lobbyist or legislative agent; providing for the use of said fund in the employment of clerical aid in making such registration; providing for the purchase of supplies necessary to carry out the existing provisions; providing for a report by the Attorney General to the Commissioner of Finance covering the collection of such fees; and providing for the transfer of unused funds to the general fund, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Each person now registered according to Chapter 16 of the Acts of 1916, as a lobbyist or legislative agent in the legislative docket kept by the Attorney General, said registration being for the 1940 Term of the General Assembly, and each person hereafter registering as a lobbyist or legislative agent during the Term of the 1940 General Assembly, or any person hereafter registering as a lobbyist or legislative agent at any term of the General Assembly, regular or special, in accordance with Chapter 16 of the Acts of 1916, shall at the time of registering in the legislative docket

kept by the Attorney General, pay to the Attorney General the sum of Two Dollars ($2.00) for each registration.

§ 2. This fund collected by the Attorney General is to be expended by him, or so much thereof as is necessary to carry out the purposes of this Act, in employing a clerical assistant, whose duty it shall be, under the direction of the Attorney General, to keep the legislative docket in the manner now provided by law. The Attorney General shall expend such portions of the fees collected by him as he shall deem necessary in the purchase of books and other supplies used in the keeping of said docket.

§ 3. He shall have the authority to expend the fees so collected by him for the employment of a clerk whose salary shall not exceed One Hundred, Twenty-five Dollars ($125.00), and whose employment shall not exceed the period of time for which the General Assembly is in regular and extraordinary sessions; but in no event shall the compensation paid such clerical assistant exceed the amount of the fees collected hereunder by the Attorney General.

§ 4. It shall be the duty of the Attorney General to submit a verified accounting of all fees so received by him, to the Commissioner of Finance within thirty (30) days after the General Assembly shall have adjourned.

§ 5. Any portion of the fees so collected not expended for the purposes herein enumerated shall be surrendered by the Attorney General to the Treasurer of the Commonwealth of Kentucky, and shall be covered into the General Fund.

§ 6. Whereas, now many persons, corporations, and associations have employed legislative agents, counsel, and lobbyists to promote or oppose the passage of legislation affecting the pecuniary or other interests of said individual, association, or corporation, as distinct from the interests of the people of the whole State; and

Whereas, the General Assembly has imposed upon the Attorney General the duty of keeping the legislative docket; and

Whereas, the keeping of said docket occupies almost the full time of a stenographer in the office of the Attorney General; and

Whereas, the Legislature made no provision for the purchase of supplies necessary to keep the legislative docket and made no provision for the employment of a clerk to perform the duty of keeping the legislative docket; and

Whereas, the interest of the people requires that all persons attempting to influence legislation for their private interests be known publicly, and the present system of keeping the legislative docket is working an unwarranted hardship upon the staff of the Attorney General,

THEREFORE an emergency is declared to exist and this Act shall take effect immediately upon its passage by the General Assembly and approval by the Governor.

By Mr. Hunnicutt.

H. B. 30. AN ACT to repeal, amend and re-enact Section 4127 of Carroll's Kentucky Statutes, being Section 3 of Chapter 130 of the Acts of the Regular Session of the General Assembly of 1928, providing compensation for the members and clerk of the county board of supervisors.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section Four Thousand, One Hundred Twenty-seven (4127), being Section Three (3) of Chapter One Hundred Thirty (130) of the Acts of the Regular Session of the General Assembly of 1928, shall be repealed, amended, and re-enacted so that said section shall read as follows:

"The members of the board of supervisors and the clerk shall each be allowed one dollar and fifty cents ($1.50) per day for each day of actual attendance of the meetings of the board to be paid out of the State Treasury. In addition thereto, the members of said board and the clerk shall each be allowed as compensation a sum to be determined by the fiscal court, of not less than one dollar and fifty cents ($1.50) nor more than ten dollars ($10.00) per day for each day of actual attendance of the meetings of the board, to be paid out of the county levy.

By same.

H. B. 31. AN ACT entitled an ACT authorizing cities of the second, third, fourth, fifth, and sixth classes to provide public liability insurance for the police and fire departments and the members thereof; to provide for appropriation of money from the general funds of such cities to pay the premium of such public liability insurance, and repealing all laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Cities of the second, third, fourth, fifth and sixth class, may, by ordinance, of the Legislative body of such cities, provide public liability insurance for the regular police department and the members thereof and for regular fire department if one is maintained, or for the volunteer fire department and the members thereof, for the indemnity of such members of police and fire departments as hereinbefore stated against any claims for damages resulting from the operation or use of any motor vehicle, machine, apparatus or equipment of such departments arising from the use and operation of same in any activity within the usual and normal prescribed duties or purposes of such departments.

§ 2. Such public liability insurance may be contracted for the coverage of individuals of the departments, or it may be contracted on a group plan for the coverage of all members of such departments, and such cities shall pay for the premiums on such insurance out of the General funds of such cities.

§ 3. All laws or parts of laws in conflict herewith are hereby repealed.

By same.

H. B. 32. AN ACT to amend Chapter 23 of the Acts of 1936, fourth extraordinary session, relating to junior colleges.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Chapter 23 of the Acts of 1936, fourth extraordinary session, is amended to read as follows:

§ 1. *Definitions.* (1) "Junior College" means a college affording instruction in the arts, sciences and professions above high school grade *and supplementary to the high school curriculum,* and conferring certificates of attainment substantially equivalent to two years of study toward the degree of Bachelor of Arts or Bachelor of Science.

(2) A "city junior college" is one supported in whole or in part by city taxation.

(3) *A "county junior college" is one supported in whole or in part by county taxation.*

(4) *A "district junior college" is one supported in whole or in part by taxes levied by two or three adjoining counties.*

§ 2. *Establishment or acquisition of junior colleges.* (1) A city junior college may be established or acquired by the board of education of any city of the second, *third, fourth, fifth or sixth class.*

(2) *A county junior college may be established or acquired by the boards of education of all cities of the second, third, fourth, fifth or sixth class in the county, jointly with the county board of education.*

(3) *A district junior college may be established or acquired by the boards of education of two or three adjoining counties, jointly with the boards of education of all cities of the second, third, fourth, fifth or sixth class located in the counties.*

§ 3. *Management of junior colleges. Each junior college established or acquired under this Act shall be managed by a governing board consisting of the members of all the boards of education participating in the establishment or acquisition of the college. The funds of the junior college shall be kept in a separate junior college fund by a junior college treasurer appointed by the governing board. The junior college treasurer shall be the treasurer of one of the boards of education participating in the management of the college, and the governing board may fix his compensation at not more than ten dollars for each day of actual service.*

§ 4. *Tax to support junior college.* The city legislative body, *the fiscal court, or the fiscal courts of adjoining counties,* shall annually levy a tax of not less than five nor more than ten cents on each one hundred dollars worth of taxable property for the support of the city, *county or district* junior college. The levy shall be made at the same time and in the same manner as other levies for public school purposes, and the amount so levied shall be placed to the credit of the junior college fund, and paid as collected by the city *or county* treasurer to the junior college treasurer. The taxes authorized by this section are school taxes and are in addition to all other taxes.

§ 5. *Students eligible to attend. Any person who has resided for three months in the city, county or district supporting a junior college, and has been graduated from a*

public high school or, in the opinion of the governing board, has substantially similar high school training, may enroll as a student in a junior college established or acquired under this Act.

§ 6. *Tuition fee.* The governing board of each public junior college may charge each student tuition fee, not to exceed one hundred dollars. The junior college treasurer shall collect the tuition fee and place it to the credit of the junior college fund, to be used for maintaining and operating the junior college.

§ 7. *Financial report.* Each board of education participating in the maintenance of a junior college shall make an annual report and audit of receipts and disbursements of the junior college fund.

§ 8. *Use of school property for junior college.* The Board of education of *any county* or any city of the second, *third, fourth, fifth or sixth class* may set apart or appropriate any building or grounds, or part thereof, not especially needed for other school purposes, for the use of a junior college established under this Act.

§ 9. *Existing junior colleges.* This Act shall not affect cities that have established and are now operating junior colleges other than by boards of education.

By Mr. Perkins.

H. B. 33. AN ACT amending and re-enacting Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision, relating to the inadmissibility of confessions obtained by sweating.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1649-3 of Carroll's Kentucky Statutes, Baldwin's Revision of 1930, be and the same is amended and re-enacted, and as so amended and re-enacted shall read as follows:

Section 1649b-3. Not admissible. No confession obtained by means of sweating, as defined herein, shall be permitted as evidence in any court in this state, but same shall be deemed to have been obtained by duress, if it be shown that such confession was made after the arrest of the party charged with crime and while he was in custody of the law. The trial judge shall determine the competency and admissibility of any alleged confession under the provisions of this statute from evidence heard by him, independent of and without the hearing of the jury trying the case.

By same.

H. B. 34. An Act entitled "An Act to amend section 606 of Civil Code of Practice".

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 606 of the Civil Code of Practice be amended by striking out of said section subsection 1 and inserting in lieu thereof the following:

"In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that neither may be compelled to testify for or against the other," so that when said Section 606 is amended and re-enacted it shall read as follows, to wit:

§ 1. In all actions between husband and wife, or between either or both of them and another, either or both of them may

testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that neither may be compelled to testify for or against the other.

§ 2. Infant; lunatic or dead person; when party may testify against. Subject to the provisions of subsection 7 of this section, no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by an infant under fourteen years of age, or by one who is of unsound mind or dead when the testimony is offered to be given except for the purpose, and to the extent of affecting one who is living, and who, when over fourteen years of age and of sound mind, heard such statement, or was present when such transaction took place, or when such act was done or omitted, and except "in actions for personal injury, death or damage to property by negligence or tortious acts, unless—

a. Infant; provision as to. The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or,

b. Person of unsound mind. The person of unsound mind shall, when of sound mind, have testified against such person, with reference thereto; or,

c. Decedent; provision as to. The decedent, or a representative of, or some one interested in, his estate, shall have testified against such person, with reference thereto; or,

d. Agent of decedent or person of unsound mind. An agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify, with reference thereto.

§ 3. Party can not testify after introducing other testimony. No person shall testify for himself, in chief, in an ordinary action, after introducing other testimony for him-

self, in chief; nor in an equitable action, after taking other testimony for himself, in chief.

§ 4. Attorneys and priests as to communications and confessions. No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall a clergyman or priest testify concerning any confession made to him, in his professional character, in the course of discipline enjoined by the church to which he belongs, without the consent of the person confessing.

§ 5. Party testifying against dead person or lunatic. If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified against him, the testimony of such person shall be confined to the facts or transactions to which the adverse testimony related.

§ 6. Entries in books; when party may testify concerning; production of. A person may testify for himself as to the correctness or original entries made by him against persons who are under no disability—other than infancy—in an accounting, according to the usual course of business though the person against whom they were made may have died or have become of unsound mind; but no person shall testify for himself concerning entries in a book, or the contents or purport of any writing under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing, and to make it subject to the order of the court for the purposes of the action, if required to do by the party against whom he offers to testify.

§ 7. Assignor of claims when incompetent. The assignment of a claim by a person who is incompetent to testify for himself shall not make him competent to testify for another.

§ 8. Adverse party may be compelled to testify. A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition

as any other witness; but the party calling for such examination shall not be concluded thereby, but may rebut it by counter testimony.

§ 9. Affidavits; attesting witnesses; provisions of this section do not apply to. None of the preceding provisions of this section apply to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.

By same.

H. B. 35. AN ACT relating to Revenue and Taxation, amending sections 4281f-1, as amended by Chapter 34 of the Acts of 1938, and 4281f-2 of Carroll's Kentucky Statutes, 1936 Edition, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4281f-1 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 34 of the Acts of 1938, is amended to read as follows:

Definitions. (a) "Places of amusement and/or entertainments" includes all theaters, ball parks and stadia, lecture halls, dance halls, night clubs, skating rinks, public bathing places, *carnivals,* and all places, whether like those above mentioned or not, at which businesses providing amusement or entertainment, for which a charge is made, are operated; but does not mean race tracks subject to supervision by the Kentucky Racing Commission, athletic contests in which one of the contesting teams is composed exclusively of students of any educational institution in Kentucky, or public bathing places or swimming pools owned and operated by municipalities.

(b) *"Carnivals" means all street fairs except state and county fairs, all amusements parks, shows operated either directly or by concessionaires in two or more separate units, exhibitions or main side shows, and similar enterprises where rides, shows, exhibitions, concessions, cane racks or games of skill are operated.*

(c) "Sale" includes the transfer or exchange for valuable consideration of any service.

(d) "Professional entertainers" means persons who receive compensation for their performances.

(e) "Proprietor" means any person who owns, operates, or manages a place of amusement and/or entertainment.

(f) "Department" means the Department of Revenue.

§ 2. Section 4281f-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Excise tax; exemption. (1) An excise tax is imposed on the sale of admissions to all places of amusement and/or entertainment, *except carnivals,* at the following rates:

Admission Charge	*Tax*
Less than 11 cents	No Tax
11 to 18 cents	1 cent
19 to 28 cents	2 cents
29 to 38 cents	3 cents
Over 38 cents	3 cents plus 1 cent for each additional 5 cents or fractional part thereof.

(2) At places of amusement and/or entertainment where food or drink is served and professional entertainers are employed, the taxable admission charge shall be deemed to be either the cover charge or twenty-five per cent of the total charge made, whichever is greater. If there is a charge for seating, or for special facilities within the place of amusement and/or entertainment, the taxable admission

charge shall be deemed to include both the charge for general admission and the charge for seating or special facilities.

(3) *An excise tax is imposed on the operations of every carnival in a sum equal to ten per cent of its gross receipts, including the gross receipts of all its separate units and concessions*

(4) No tax is imposed if at least seventy-five per cent of the gross proceeds of the place of amusement and/or entertainment are to be used exclusively for charitable, educational or religious purposes within this state.

§ 3. Whereas, many carnivals will be in operation before this Act becomes effective, and,

Whereas, the state otherwise would be deprived of a large amount of revenue necessary for the maintenance of the state government, an emergency is declared to exist, and this Act shall become a law and be effective upon its passage and approval by the Governor.

By H. O. Porter.

H. B. 36. AN ACT to amend the Constitution of the Commonwealth of Kentucky relating to annual elections.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Constitution of the Commonwealth of Kentucky is amended by adding thereto the following section:

All officers elected from the state at large and the railroad commissioners elected in nineteen hundred and forty-three shall hold office for three years only. Their successors shall be elected in nineteen hundred and forty-six and every four years thereafter.

All persons elected to the State Senate in nineteen hundred and forty-three and in nineteen hundred and forty-

five shall hold office for three years only. Their successors shall be elected in nineteen hundred and forty-six and in nineteen hundred and forty-eight respectively and every four years thereafter.

All persons elected to the State House of Representatives in nineteen hundred and forty-five shall hold office for one year only. Their successors shall be elected in nineteen hundred and forty-six and every two years thereafter.

All officers, except circuit court clerks, elected in each county or justice's district in nineteen hundred and forty-five shall hold office for three years only. Their successors shall be elected in nineteen hundred and forty-eight and every four years thereafter.

Judges of the circuit courts, Commonwealth's attorneys and clerks of the circuit courts elected in nineteen hundred and forty-five shall hold office for five years only. Their successors shall be elected in nineteen hundred and fifty and every six years thereafter.

All city officers elected for a term of four years in nineteen hundred and forty-five shall hold office for three years only. Their successors shall be elected in nineteen hundred and forty-eight and every four years thereafter. All city officers elected for a term of two years in nineteen hundred and forty-five shall hold office for one year only. Their successors shall be elected in nineteen hundred and forty-six and every two years thereafter.

§ 2. This amendment shall be submitted to the voters at the time and in the manner provided for under sections 256 and 257 of the Constitution of the Commonwealth of Kentucky and section 1459 of Carroll's Kentucky Statutes, 1936 Edition.

By same.

H. B. 37. AN ACT to repeal section 574 and to amend

subsection 1 of section 575 of the Civil Code of Practice, Carroll's 1938 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 574 of the Civil Code of Practice, Carroll's 1938 edition, is repealed.

§ 2. Subsection 1. of section 575 of the Civil Code of Practice, Carroll's 1938 edition, is amended to read as follows:

In the cases mentioned in sections 571 and 573, the interrogatories, together with notice of filing given pursuant to sections 624 to 633, shall be filed in the clerk's office. The caption shall state the name and place of residence of the witness. Until a commission to take the deposition is issued, the party notified may file cross-interrogatories.

By same.

H. B. 38. AN ACT to amend subsection 1. of section 606 of the Civil Code of Practice, Carroll's 1938 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Subsection 1. of section 606 of the Civil Code of Practice, Carroll's 1938 edition, is amended to read as follows:

Neither husband nor wife may testify, while the marriage exists or afterwards, concerning any communication between them during marriage. In actions to which either is a party, neither may testify for or against the other, concerning any matter, with the following exceptions:

a. When a husband or wife acts as agent for the other, either may testify for the other as to any matter connected

with the agency, but both may not testify as to the same fact.

b. In an action for lost baggage or its value either may testify for the other.

c. In actions which might have been brought by or against the wife, if she had been unmarried, either may testify for the other, but both may not testify as to the same fact.

d. In a prosecution under K.S. 331i-1 either may testify for or against the other.

e. In an action for *absolute* divorce *or divorce from bed and board,* either may testify concerning any matter involved in the action, *including questions of property.*

f. In a prosecution for bigamy, either may testify against the other.

By same.

H. B. 39. AN ACT TO AMEND sections 9, 25 and 26 of Chapter 107 of the Acts of 1938, compiled as sections 1954d-9, 1954d-25 and 1954d-26 of Baldwin's Kentucky Statutes Service, May, 1938, relating to game and fish.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 9 of Chapter 107 of the Acts of 1938, compiled as section 1954d-9 of Baldwin's Kentucky Statutes Service, May, 1938, is amended to read as follows:

Enforcement; power of landowner to arrest. (1) The Director shall supervise and control all activities, functions and employes of the Division, enforce the game and fish laws and exercise all necessary powers incident thereto, under the supervision of the Commissioner of Conservation.

(2) Subject to the approval of the Commissioner of Conservation and the Governor, the Director may appoint

necessary conservation officers and other persons to enforce this Act. Peace officers shall also enforce this Act.

(3) Any peace officer, conservation officer or person appointed by the Director to enforce this Act may arrest on sight, without a warrant, any person violating this Act in his presence, and may seize contraband without process. *Any landowner, or lessee for one year or more, may, without a warrant, arrest persons violating this Act on his land and in his presence.* Any person having power to arrest violators of this Act may require the aid of other persons in making an arrest.

§ 2. Section 25 of Chapter 107 of the Acts of 1938, compiled as section 1954d-25 of Baldwin's Kentucky Statutes Service, May, 1938, is amended to read as follows:

Disposition of fines. (1) Fines imposed for violation of this Act shall be disposed of as follows:

(a) Forty per cent to the county attorney or Commonwealth's attorney, if he is present and prosecutes the case.

(b) *Fifty per cent to any landowner or lessee who has arrested the person fined, as authorized by section 1954d-9.*

(c) The remainder to the Director, to be paid by him to the State Treasurer and deposited in the game and fish fund.

(2) No part of the fine shall be paid to the county attorney, Commonwealth's attorney or any landowner or lessee unless the judgment states that he has rendered the services entitling him to it.

§ 3. Section 26 of Chapter 107 of the Acts of 1938, compiled as section 1954d-26 of Baldwin's Kentucky Statutes Service, May, 1938, is amended to read as follows:

Costs. There shall be taxed as costs in each case where there is a conviction, a fee of five dollars to be paid to the arresting officer, *but the fee shall not be taxed if the arrest was made by a landowner or lessee not an officer.*

By same.

H. B. 40. AN ACT to repeal Sections 3480E-1, 3480E-2, 3480E-3, 3480E-4, 3480E-5, 3480E-6, 3480E-7, 3480E-8, 3480E-9 3480E-10, 3580E-11, 3480E-12 of Kentucky Statutes, Carroll's Edition, one thousand nine hundred and thirty-six, Supplement of April, one thousand nine hundred and thirty-nine, being chapter 114 of the Acts of the General Assembly of the Commonwealth of Kentucky, of 1938, establishing a civil service commission in cities of the third class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 3480E-1, 3480E-2, 3480E-3, 3480E-4, 3480E-5, 3480E-6, 3480E-7, 3480E-8, 3480E-9, 3480E-10, 3480E-11, 3480E-12, of Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six, Supplement of April, one thousand nine hundred and thirty-nine, being chapter 114 of the Acts of the General Assembly of the Commonwealth of Kentucky, of 1938, be and is hereby repealed.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed.

By Mr. Ennis.

H. B. 41. AN ACT to authorize and enable cities of all classes to purchase, establish, acquire, maintain and operate municipal recreational projects, including golf courses, tennis courts, swimming pools, bathing pools, bridle paths and other similar projects for public recreation; providing for the creation of a commission to manage said recreational projects; providing for the sale of revenue bonds payable solely out of the revenue derived from such municipal recreational projects; providing for the disposition of revenue from the operation of such projects, and for the

payment of debts created in their establishment; exempting fees collected for admission to or use of such projects from taxation; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. As used in this act, the term "city" shall mean and include cities of all classes of the Commonwealth of Kentucky, whether organized under the general law or by special charter law; the term "project" shall mean and include golf courses, tennis courts, bridle paths, swimming pools, bathing pools and other similar projects made available to the public for recreational purposes, but it shall not mean or include any recreational facility conducted in connection with the maintenance of public parks which have heretofore been or may hereafter be established by a city under the general law; and the term "commission" shall mean the body appointed by the city legislative board to manage any and all of such projects created under this act.

§ 2. Cities of all classes, whether organized under the general law or special charter law, and including such cities where the commission form of government or the city manager form of government has been adopted, are hereby authorized and empowered to purchase, establish, erect, acquire, accept, maintain and operate municipal recreational projects including golf courses, tennis courts, swimming pools, bridle paths and other similar projects for public recreation, and all necessary club houses, bath houses, locker rooms, shower rooms, and other necessary appurtenances thereto, within or without the corporate limits of such cities, under the provisions of this Act, for the purpose of supplying such cities and the inhabitants thereof with suitable and safe recreational facilities.

§ 3. Any city purchasing, establishing, erecting, acquiring or accepting any recreational projects authorized by this

Act and desiring to maintain and operate such project or projects under the provisions hereof shall by ordinance provide for the appointment of a board of commissioners to operate, manage and control such project or projects, said board of commissioners to be known as the City Recreational Commission or by whatever title the city may designate in the ordinance under which it is created. Said board of commissioners shall continue and is hereby declared a body-politic and corporate with perpetual succession; and by whatever name or title the city shall designate in the ordinance under which it is created, said board may contract and be contracted with, sue and be sued, have and use a corporate seal and alter and renew the same at pleasure.

§ 4. The board which constitutes the city recreational commission shall consist of three (3) members to be appointed by the Mayor with the approval of a majority of the members of the legislative body of the city, and the members of said commission shall serve without compensation. Members of said commission first appointed under this Act shall be appointed to serve for terms as follows: One for a term of two (2) years; one for a term of (4) years; and one for a term of six (6) years. Upon the expiration of the first terms, successors shall be appointed for a term of six (6) years. The members of said commission shall be citizens and legal voters of the city, and if any member during the term of his office shall become a candidate for or be elected, or be appointed to any public office he shall automatically vacate his membership from said commission and another person shall be appointed in his place; Provided, however, that this provision shall not prevent a member of said commission from serving as a member of any other appointive commission of the city, county, state or federal government.

Any member of said commission may be removed by the vote of three-fourths of the elected members of the city's legislative body, and vacancies shall be filled in the same

manner as the members of said commission are first appointed under the provisions of this Act. The city may require each commissioner to execute a bond in the penal sum of $1,000.00 conditioned upon the faithful performance of his official duties. If said commissioners are required to execute bonds, such bonds shall be approved by the legislative body of the city, and the cost thereof may either be paid by the city or by the commission out of its revenue.

Said commission shall provide rules, regulations and by-laws for the management of said recreational project or projects, and out of the revenue derived from such project or projects it shall pay all operating expenses, provide for such repairs and additions as may be necessary to be made thereto, provide a sufficient reserve fund to insure and keep insured against fire and tornado the buildings and improvements erected for the purpose of providing such recreational project or projects, provide a fund for payment of any incidental or emergency expenses which may arise, and set up a fund to provide for the payment of any debts created in connection with the establishment and maintenance of such project or projects.

The commission shall have authority to levy and collect fees for the use of or admission to the project or projects herein authorized, and to expend or invest the income from such fees for the purposes above set forth.

§ 5. All properties, both real and personal, which the city may acquire for the establishment and maintenance of such recreational project or projects shall be exempt from taxation to the same extent as other public property used for public purposes, and all fees charged or collected for the admission to or the use of such project or projects created under this Act shall also be exempt from taxation, it being specifically provided that such fees shall not be subject to the admission tax imposed upon places of amusement and/or

entertainment under Section 4181F-2 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

§ 6. Any city which establishes a recreational project or projects provided by this Act is hereby authorized to acquire by gift, devise, bequest, grant, or purchase solely from the funds provided under the authority of this Act, such lands, structures, rights-of-way, franchises, easements or other interests in land necessary for the establishment and maintenance of such project or projects and upon such terms, prices and considerations as may be considered by the city to be reasonable and can be agreed upon between said city and the owner or owners thereof. Title to all property acquired for such purposes shall be taken in the name of the city.

§ 7. For the purpose of defraying the cost of purchasing, establishing, erecting and acquiring any recreational project or projects and necessary appurtenances thereto under the provisions of this act, any city may borrow money and issue negotiable bonds, which shall be payable solely out of the revenue from such project or projects. All bonds under the provisions of this Act may be issued bearing interest at the rate not exceeding six (6) per cent per annum, payable semi-annually, and shall be executed in such manner and be payable at such times, not exceeding thirty (30) years from the date of issuance, and at such place or places as the legislative body shall determine.

§ 8. Any and all such bonds shall have and are hereby declared to have in the hands of bona fide holders all the qualities of negotiable instruments under the law merchant, and shall not be subject to taxation. If the officers whose signatures or countersignatures appearing on the bonds or coupons shall cease to be such officers before delivery of such bonds, the signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be

sold in such manner and upon such terms as the legislative body of the city shall deem for the best interests of such city, or any contract for the purchase or acquisition of any recreational project or projects may provide that payment thereof shall be made in such bonds. In no event shall any bonds be negotiated on a basis to yield more than six per cent interest per annum. Such bonds when issued shall be payable solely from the revenue funds derived from the operation of such recreational project or projects as authorized herein, and shall not constitute an indebtedness of such city within the meaning of the provisions and limitations of the Constitution of this commonwealth. It shall be plainly stated on the face of each bond that same has been issued under the provisions of this act and does not constitute an indebtedness of such city within the meaning of any constitutional provisions or limitations.

§ 9. All money received from any bonds issued pursuant hereto shall be applied solely to the purchase, establishment, erection and acquisition of such municipal recreational project or projects and necessary appurtenances thereto, provided such money may be used also to advance the payment of interest on bonds during the first three years following the date of such bonds. And provided further that the expenses of operation and maintenance for one month after the opening of such recreational project or projects may be advanced from these funds. There shall be and there is hereby created a statutory mortgage lien upon the recreational project or projects and necessary appurtenances thereto so acquired through the issuance of such bonds, to and in favor of the holders of said bonds and each of them and to and in favor of the holders of the coupons of said bonds. The project or projects together with appurtenances thereto so purchased, established, erected or acquired shall remain subject to such statutory liens until the payment in full of the principal and interest of the bonds. Any holder of said bonds or of the

coupons may, either at law, or in equity by suit, action, mandamus or other proceedings protect and enforce the statutory mortgage lien hereby conferred and may by suit or other proceedings enforce and compel performance of all duties required by this act, including the making and collecting of sufficient fees, the segregation of the income and revenue, and the application thereof.

§ 10. If there be any default in the payment of the principal or interest of any of said bonds, any court having jurisdiction of the action may appoint a receiver to administer said project or projects on behalf of the city, with power to charge and collect rates for the services rendered, use of or admission to such project or projects sufficient to provide for the payment of any bonds or obligations outstanding and for payment of the operating expenses and to apply the income and revenue in conformity with this act.

§ 11. At or before the issuance of such bonds the legislative body of the city shall, by ordinance, set aside and pledge the income and revenue of such project or projects into a separate and special fund to be used and applied in payment of the cost thereof and in the maintenance, operation and depreciation thereof. Such ordinance shall definitely fix the amount of revenue which shall be necessary and be so set aside and applied to the payment of the principal and interest of the bonds, and the proportion of the balance of such income and revenues which is to be set aside as a proper and adequate depreciation account, and the remaining portion of such balance shall be set aside for the reasonable and proper operation and maintenance thereof. The fees to be charged for the use of or admission to such project or projects shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same becomes due and to provide for the operation and maintenance thereof an adequate depreciation account. Such fees shall be fixed and revised from time to

time so as to produce these amounts. If any surplus shall be accumulated in the operating and maintenance fund, which shall be equal to the cost of maintaining and operating such project or projects during the remainder of the calendar, operating or fiscal year, the excess may be transferred at any time by the commission to the depreciation account to be used for any improvements or additions to such project or projects.

§ 12. The funds accumulating to the depreciation account shall be expended in balancing depreciations or in making new constructions or additions thereto. Any such accumulations may be invested as the commission may designate, and if invested the income from such investments shall be carried into the depreciation account.

§ 13. The city may issue new bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure described by this act. Such new bonds shall be secured to the same extent and shall have the same source of payment as the bonds which shall have been thereby refunded.

Should the legislative body of the city find that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the procedure as herein described.

§ 14. Any city acquiring a recreational project or projects pursuant to the provisions of this act may, at the time of issuing of the bonds for such acquisition, provide for additional bonds for additions and permanent improvements to be placed in escrow and to be negotiated from time to time as such proceeds for that purpose may be necessary. Such bonds when so negotiated shall have equal standing with bonds of the same issue.

In like manner, any city acquiring a municipal recreational project under the provisions hereof may provide

for the addition to and improvement of such project by an additional issue or issues of bonds in the manner provided.

§ 15. This act shall be deemed to create an additional and alternate method for the acquisition, establishment and management of a municipal recreational project or projects by cities of all classes and shall not be deemed to include, amend, alter or repeal any other statute. No proceedings shall be required for the acquisition, establishment or management of any recreational project or projects hereunder or the issuance of bonds hereunder except as are prescribed in this act, any provision in the general laws of the Commonwealth of Kentucky or the charter of any city to the contrary notwithstanding.

§ 16. Any bonds issued by a city pursuant to the provisions of this Act, or any obligations incurred for the establishment and maintenance of such recreational project or projects shall not constitute an obligation of the State, City or any other Governmental sub-division, agency or instrumentality thereof, but shall be payable only out of the properties, revenue and assets of such project or projects.

§ 17. If any section or provision of this act is for any reason illegal or is held invalid the remaining sections and parts thereof shall not be affected by such decision and shall remain in full force and effect.

§ 18. Whereas this act provides an additional means for the acquisition of recreational projects for the general welfare of the public not heretofore enjoyed by the municipalities of the Commonwealth of Kentucky, and whereas several municipalities desire to establish recreational projects immediately to the end that they may be available for the public during the spring and summer months, now, therefore, an emergency is declared to exist, and this act shall become of full force and effect from and after its passage and approval by the Governor.

By Mr. Ward.

H. B. 42. An Act to permit fishing with pole and line without license.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That it shall be lawful for any resident of this state to fish with pole and line in any waters thereof at any time except during the month of May of each year, and no license for such angling shall be required.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed.

By Mr. Bennett.

H. B. 43. AN ACT to provide for the correction of ommissions, irregularities, errors or mistakes of election officers.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That if it appears to any Board of County Election Commissioners in determining the person or persons receiving the greatest number of votes cast for the several offices voted for any election, that any ballots have not been properly signed, or any other omission, irregularity, error or mistake occurred in the returns of the election officers in any precinct, which can be cured by amending or correcting same, it shall be the duty of said Board of Election Commissioners to immediately summons the said election officers or such of them as may be requisite, to forthwith appear before said Board for the purpose of correcting such omissions, irregularities, errors or mistakes so that the law may be

fully complied with and the apparent purpose of all voters made effective.

§ 2. The summons may be executed by any sheriff, constable or qualified voter, who shall receive fifty cents (50c) for each person summoned, to be paid by the county or city in which such election was held.

If any election officer refuses or fails to obey such summons, the Election Commission shall report such failure or refusal to the Circuit Judge of the District in which the county is located, who shall compel the attendance of such election officer or officers. If the Circuit Judge of said District is for any reason disqualified, the board shall apply to the nearest available Circuit Judge for relief.

All laws and parts of laws in conflict herewith are hereby repealed.

By same.

H. B. 44. AN ACT to increase the amount of old age pension assistance, to repeal the provision giving the state a lien upon the estate of recipients of old age assistance and to cancel and annul all such liens now in effect.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2 of Chapter 93b of the Acts of 1936 is hereby amended so that any person eligible for old age assistance shall be awarded not less than $10.00 a month nor an amount exceeding $30 a month.

§ 2. That Section 11 of Chapter 93b of the Acts of 1936 and all amendments thereto are hereby repealed and all liens that have been executed and are now in effect in accordance with the provision of said Section 11 are hereby cancelled and annulled.

By same.

H. B. 45. An Act to prevent hunting on the Sabbath.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That it shall be unlawful for any person to hunt or take birds or any kind of wild game on the Sabbath Day in this state.

§ 2. That any person violating the provision of this act shall be guilty of a misdemeanor and upon conviction therefor by a court of competent jurisdiction shall be fined not less than $15.00 nor more than $25.00 for each offense and each Sabbath on which such person may hunt shall constitute a separate offense.

By same.

H. B. 46. An Act to exempt totally disabled war veterans from paying tax on $1,000 worth of property.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That honorably discharged soldiers, sailors, marines and nurses, residents of Kentucky, who shall have served 90 days or more in the military or naval forces of the United States and who are totally disabled as evidenced by pension certificate or the award of compensation and the un-remarried widow of any such soldier, sailor, or marine shall be exempt from paying taxes on $1,000 of property listed by any such person for taxable purposes in the state of Kentucky.

§ 2. Any person who faudulently receives or accepts such exemption from taxes shall be guilty of a felony and

upon conviction in a court of competent jurisdiction shall be fined not less than $100.00 and not exceeding $500.00 or not exceeding one year imprisonment or both in the discretion of the jury.

By same.

H. B. 47. AN ACT to exempt from taxation gasoline used in farm tractors, stationary engines, motor boats and aircraft, and all other purposes than propulsion of motor vehicles upon the highways of this state.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the word person in this act shall mean one or more individuals, company, firm, co-partnership or corporation.

§ 2. That gasoline used in farm tractors for farming purposes, stationary engines, motor boats or aircrafts, cleaning or dyeing, or for any other purposes than the propulsion of motor vehicles upon the highways of this state shall be exempt from the five cent (.05c) a gallon state tax now imposed and this tax having been paid shall be refunded as hereinafter provided.

§ 3. That it shall be unlawful for any person to secure a refund of tax under this act unless such person is the holder of an unrevoked refund permit issued by the State Tax Commission of Kentucky. To procure such permit every such person shall file with the Tax Commission of Kentucky an application upon oath and in such form as the Tax Commission may prescribe setting forth such information incidental to the refunding of tax paid on motor vehicle fuel as the Tax Commission may require. The vendee's refund permit herein authorized to be issued may be revoked by the State Tax Commission of Kentucky if it be found that the holder

thereof has made a false or fraudulent application for refund of tax or when the permittee fails to furnish information as required by law or has violated any provision of this act. No permit so revoked shall be reinstated within one year from the date of such revocation. Such vendee shall file with the Tax Commission of Kentucky an application for refund upon oath and in such form as the Tax Commission may prescribe, setting forth such information as the Tax Commission may require. Such application shall be accompanied by the original invoice, or certified copy thereof, showing such purchase together with evidence of payment thereof. On filing of such application and invoice the Tax Commission of Kentucky shall determine the amount of refund due and within thirty (30) days from the time of filing the same shall certify such amount to the State Auditor. The Auditor shall thereupon draw a warrant for such amount on the State Treasurer in favor of the person claiming such refund and such refund shall be paid by the Treasurer. The Tax Commission shall require the application provided for herein to be supported by the affidavit of the claimant.

§ 4. That the right to receive and refund under the provisions of this Act shall not be assignable, except to the duly licensed dealer who shall have sold to the user the motor vehicle fuel upon which the claim for refund is based. Nor shall any payment thereof be made by the State Treasurer to any person other than such duly licensed dealer or the person originally entitled thereto, using the motor vehicle fuel upon which the claim for refund is based, except that such refunds when duly certified as in this section provided may be paid to the Executor or Administrator, or to the Receiver, Trustee in Bankruptcy or assignee in insolvency proceedings of such person entitled thereto.

§ 5. That when any dealer in this state sells gasoline to be used as provided in this Act to any person holding a tax refund permit the purchaser shall exhibit such permit to said

dealer and the dealer shall make out in triplicate an invoice in such forms as the State Tax Commission may prescribe setting forth such information as the Tax Commission may require and the blanks for such invoice shall be supplied by the Tax Commission. Such dealer shall deliver one copy of the invoice to the purchaser, mail one to the State Tax Commission, and retain one in his files. It shall be sufficient for the dealer to mail all invoices in his possession to the Tax Commission at the end of each month.

§ 6. That it shall be unlawful for any person who purchases gasoline to be used in accordance with the provisions of this Act to use or permit the use of such gasoline to propel any motor vehicle over any public highway of this state, provided nothing herein shall prevent the moving of farm tractors from one field to another on any farm or from one farm to another when it may be necessary to use any public highway for that purpose.

Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction by any Court of competent jurisdiction shall be fined not less than $100.00 nor more than $500.00 for each offense.

By same.

H. B. 48. An Act changing the open season for hunting squirrels.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the open season for hunting or taking squirrels in this state shall be from August 15 to November 1 of each year.

§ 2. That any person violating the provision of this act shall be guilty of a misdemeanor and upon conviction by any court of competent jurisdiction shall be fined not less

than $15.00 nor more than $25.00 for each offense and each day of hunting or taking squirrels in violation of this act shall constitute a separate offense.

All laws and parts of laws in conflict herewith are hereby repealed.

By same.

H. B. 49. An Act for the protection of birds.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That no bird dog shall be permitted to run at large in this state either on the premises of the owner or keeper of such dog or dogs or elsewhere during the time from the 15th day of May to the 15th day of August of each year.

§ 2. It is hereby made the duty of the owner or keeper of any such dog or dogs to keep them confined as herein provided.

§ 3. Any person violating the provision of this act shall be guilty of a misdemeanor and upon conviction by any court of competent jurisdiction shall be fined not less than $15.00 nor more than $25.00 and each day such dog or dogs are permitted to run at large shall constitute a separate offense.

By same.

H. B. 50. An Act to amend Section 965 of Carroll's Kentucky Statutes in so far as it relates to the time of holding the terms of Circuit Court in the 38th Judicial District composed of the counties of Ohio, Muhlenberg, Butler and Edmonson.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 965 Carroll's Kentucky Statutes in so far as it relates to the time of holding the terms of Circuit Court in the Thirty-eighth Judicial District composed of the counties of Ohio, Muhlenberg, Butler and Edmonson, be and the same is hereby amended by striking from said section all that part which relates to the time of holding the terms of Circuit Courts in the Thirty-eighth Judicial District and inserting in lieu thereof the following, so that as amended it shall read as follows:

THIRTY-EIGHTH JUDICIAL DISTRICT

Ohio County, at Hartford; first Monday in March, twelve Juridical days; first Monday in June, twelve juridical days; first Monday in September, twelve juridical days; first Monday in December, twelve juridical days.

Muhlenberg County, at Greenville; first Monday in January, twenty-four juridical days; first Monday in May, twenty-four juridical days; first Monday in October, twenty-four juridical days.

Butler County, at Morgantown; first Monday in April, twelve juridical days; first Monday in July, twelve juridical days; third Monday in November, twelve juridical days.

Edmonson County, at Brownsville; third Monday in March, twelve juridical days; third Monday in June, twelve juridical days; first Monday in November, twelve juridical days.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed.

§ 3. The change of time for holding terms of the Circuits in the Thirty-eighth Judicial District as hereinabove provided has become necessary because of a conflict in time of holding said courts and the District Court of the United States for the Western District of Kentucky which convenes at Bowling Green and wherein is pending a large volume of litigation affecting citizens of said Thirty-eighth Judicial District and

wherein lawyers of said District are attorneys for many of said litigants with cases in said United District Court and because of such conflict in time of holding said courts an emergency is hereby declared and this Act shall take effect from and after its passage and its approval by the Governor.

By same.

H. B. 51. An Act to provide for the maintenance of rural roads.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That there is hereby appropriated and set aside annually $500,000.00 out of any funds in the State Treasury to the credit of the State Highway Commission to assist in maintaining the rural highways constructed under provision of Chapter 5, Acts of 1936.

§ 2. That this $500,000.00 fund shall be allocated to the various counties of the state in the same manner and in the same proportion as the two million dollar fund appropriated and set aside in said Chapter 5, Acts of 1936 is distributed.

§ 3. That each county's share of this $500,000.00 fund shall be available when said county provides and makes available $1.50 for each dollar of this $500,000.00 fund contributed by the State Highway Commission to said county.

§ 4. That if at the expiration of twelve months from the date any county's share of this $500,000.00 state maintenance fund was made available for use in said county the said county has not provided funds to match the state fund as herein provided, then in that event the defaulting county's share of said fund shall be returned to the state road fund and shall not again be appropriated to such county.

§ 5. That the maintenance fund herein provided shall be expended under the supervision of the State Highway Commission in consultation and agreement with the Fiscal Court in each county and said fund shall be fairly and equitably allocated to the various magisterial districts of the county based on the road mileage to be maintained in each.

All acts and parts of acts in conflict herewith are to the extent of such conflict hereby repealed.

By Mr. Neikirk.

H. B. 52. An Act to change the county line between the counties of Pulaski and Wayne.

Said bill is as follows, viz.:

Whereas, a majority of the voters living in the territory affected by this act, known as the Ard voting precinct of Wayne County, have petitioned the General Assembly to strike the territory from Wayne County and add it to Pulaski County, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That the county line between Wayne and Pulaski Counties shall be changed to read as follows: Beginning at a point on the present boundary line of Wayne and Pulaski Counties, on Cumberland River, close to Mill Springs; thence with the meanderings of the Cumberland River to the mouth of Cub Creek; thence with the meanderings of Cub Creek to the Russell County line; thence northeastwardly with the present boundary between Russell County and Wayne County to a point where the boundaries of Pulaski, Russell and Wayne join.

By same.

H. B. 53. An Act to amend and re-enact Section 4399-22, Kentucky Statutes, 1939 Supplement, being Chapter 4, p. 134

of the Acts of the General Assembly at its 1938 Regular Session, relating to the qualifications of members of boards of education.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 4399-22, Ky. Statutes, 1939 Supplement, being Chapter 4, page 134, of the Acts of the General Assembly at its regular 1938 session, be amended and re-enacted and when so amended and re-enacted shall read as follows:

A person to be eligible to membership on a board of education must have attained the age of twenty-four years, must have been a citizen of the Commonwealth of Kentucky for at least three years preceding his election and must be a voter of the district for which he is elected. He must not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his residence. A board member shall be eligible for re-election unless he becomes disqualified as herein provided.

No member of a board of education shall vote regarding the appointment or employment in any capacity of any person related to such member as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law, or first cousin, and the majority vote of the remainder of the board shall be required in case of appointment or employment of such person.

No person shall be eligible to this office who at the time of his election is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended. If, at any time, after the election of any member of such board, he shall become interested in any such contract with or claims against the board, or if he shall after election become a candidate for any office or agency for the nomination thereto, the holding and the discharging of the

duties of which would have rendered him ineligible before election, or if he shall move his residence from the district for which he was chosen or if he shall do or incur anything which would have rendered ineligible for re-election, his office shall without further action be vacant, and it shall be filled as hereafter provided.

No person shall be eligible to serve as a member of a board of education who has been removed from membership on a board of education for cause.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Walters.

H. B. 54. An Act to license and regulate the standing of animals for public service.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *License for standing stud, jack or bull required.* (1) No person shall stand a studhorse, jack or bull in this State without having first procured an annual license from the county clerk for each animal. The applicant for a license shall state on oath the largest amount he intends to charge, directly or indirectly, for the services of the animal, and if in property or other things, the value thereof.

(2) The Department of Agriculture, Labor and Statistics shall provide blanks upon which shall be recorded the breed, name, age, color, sire and dam of the animal, the name and post office address of the owner, and a statement as to whether the animal is registered in any stud book, naming the volume and page in which the registry is contained.

§ 2. *Registry fee, license tax.* (1) Before a license is issued the applicant shall pay to the clerk the sum of one

dollar as a registration fee. The fee shall be forwarded to the Department of Agriculture, Labor and Statistics.

(2) Every person who stands a studhorse, jack or bull in this state shall pay to the state, as an annual license tax for the privilege, a sum equal to twenty per cent of the greatest sum charged for the services of each animal stood during the year, whether the charge be for a season or to insure a get, but the minimum tax shall be ten dollars for a studhorse or jack, and one dollar for a bull.

§ 3. *Use of funds received.* The sums derived from the license tax and registration fees shall be placed in the state treasury to the credit of a revolving fund to be used for the ordinary recurring expenses of the Department of Agriculture, Labor and Statistics.

§ 4. *Penalty.* Any person who stands a studhorse, jack or bull without having first procured a license shall be fined not less than five dollars nor more the five hundred dollars. Each service is a separate offense.

§ 5. Since many animals are stood in the spring of the year, and there is urgent need for the revenue provided by this Act, an emergency is declared to exist and this Act shall take effect on its passage and approval by the Governor.

By Mr. Sparks.

H. Res. 7. A RESOLUTION authorizing Malcolm Godsey, Jr., by his statutory guardian, Malcom Godsey, Sr., to sue the Commonwealth of Kentucky, and the State Highway Commission of Kentucky, or either.

Said resolution is as follows, viz.:

WHEREAS, on April 13, 1939, Malcolm Godsey, Jr., an infant, 7 years of age, was walking alongside State Highway No. 15, near Duane, in Perry County, Kentucky, and was hit and injured by State Highway Maintenance Truck No. 2189, at the time being driven by one Crit Bach, resulting in the

breaking and complete fracture of the femur bone of said infant's leg, and the cutting of his head, body, arms, legs and person in divers places, and said infant was confined to the Hazard Hospital and his home for about six months as a result of said injuries, and now has a crooked foot and has sustained permanent and lasting disability as a direct result of said injuries; and

WHEREAS, it is claimed by said Godsey that the driver of said truck operated the same in a reckless and negligent manner, striking said infant at a time when he was off the highway, and that said infant was free of any fault, and

WHEREAS, it is claimed by the said Malcolm Godsey, Sr., guardian of Malcolm Godsey, Jr., that said infant suffered great physical and mental pain and agony, and his power to earn money was greatly diminished and damaged as a direct result of said injury to the extent of $3,000.00.

Now, therefore in order to determine by judicial action, the liability of the Commonwealth of Kentucky and the State Highway Commission of Kentucky for the alleged damages and injury:—

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Malcolm Godsey, Jr., by his statutory guardian, Malcolm Godsey, Sr., be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky, or either, in the Perry Circuit Court, for such damages, if any, as he may have suffered, by any wrongful injury to said Malcolm Godsey, Jr., by reason of being struck by said truck mentioned herein, and to recover such damages as he may have sustained;

That in any action so brought neither the Commonwealth of Kentucky nor the State Highway Commission of Kentucky shall be permitted to plead or rely upon any Statute of Limitation provided the action is brought within six months after this resolution becomes effective;

That in the event said Godsey shall recover any judgment against the Commonwealth of Kentucky or the State Highway Commission of Kentucky, it shall not exceed $3,000.00 plus interest and court cost; and either party may appeal as in other civil case;

That such case so brought may be settled and adjusted with the consent of the Attorney General of Kentucky, in the same manner as any other civil case, or such official may settle the same before action brought;

That the amount of any judgment, or of any settlement so made, shall be paid by the Auditor of Public Accounts by warrant on the State Treasurer, same to be charged to the general fund.

Ordered that said bills and resolution be printed and referred.

Mr. Joe E. Robinson moved that the House do now adjourn until tomorow at one o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 10, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	H. T. Baker	Robert E. Barry
J. Everett Bach	G. M. Ballard	Wm. T. Beard

Alvis S. Bennett	T. H. Hickey	Hobart Rayburn
Rell Bevins	Clyde S. Howard	Thomas Rigdon
Sterling B. Blake	Chester Huffines	W. H. Riley
Douglas T. Bolling	John M. Hunnicutt	Joe E. Robinson
J. F. Bosworth	W. H. Hunt	Lyman Roll
W. S. Brim	R. L. Jackson	Jack Savage
C. J. Bronston	J. B. Jarboe, Jr.	Carl Scheben
Gus A. Brooks	Chas. X. Jones	Leon J. Shaikun
Randolph A. Brown	John S. Juett	Ray O. Shehan
Haynes Carman	William K. King	Faust Y. Simpson
Charles M. Carter	W. A. Lamkin, Jr.	Bruce Sloan
James W. Chapman	Robert E. Lee	Otto Smither
S. B. Chrisman	Harvey D. Leonard	E. T. Sparks
John Coulter	Edward Leslie	G. C. Springate
John H. Cox	W. Paul Lyon	J. Claude Stacy
Pink G. Curd	C. C. May	Ray J. Stengel
W. Q. Daniel	T. B. McConnell	Henry Stewart
F. E. Daugherty	Frank C. McElwain	W. St. Clair Stuart
Stanley S. Dickson	E. Hayes McMakin	T. M. Swope
Forest C. Easley	Norris McPherson	Otis C. Thomas
D. E. Edwards	G. Sam Milam	Erna E. Tyra
Harry W. Ennis	Stanley C. Moebus	J. Wood Vance
R. R. Ernst	John B. Mollette	Walter R. Vansant
Carlos Fallis	Davis Moore	S. J. Wagner
T. P. Fitzpatrick	J. Lee Moore	Porter Wallace
Cecil Florence	Joe T. Morgan	Harry F. Walters
Wayne Freeman	C. Homer Neikirk	Henry Ward
Eugene Gough	Carl D. Perkins	H. L. Waterfield
Van Y. Greene	B. W. Porter	Otis White
Ralph C. Hamilton	H. O. Porter	James H. Woods
C. L. Hammons	Kleber F. Price	—98

Mr. Brown moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Joe Robinson moved that the rules of this House be

suspended for the purpose of proceeding with the regular Order of Business.

Said motion was agreed to.

Mr. Joe Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Cox moved that the privilege of the floor be extended to Mr. Frank Cain from Hopkins county.

Said motion was agreed to.

Upon a call of the counties and Legislative districts, the following bills were introduced, viz.:

By Mr. Ward.

H. B. 55. An Act providing for the consolidation of the office of jailer with that of sheriff in each county of the Commonwealth.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The office of jailer is hereby consolidated with that of sheriff in each county of the Commonwealth of Kentucky under the provisions of Section 105 of the Constitution of the Commonwealth. There are hereby transferred to and vested in the sheriff all the powers and duties heretofore authorized by law to be exercised or performed by the jailer, and the sheriff is hereby authorized to collect all fees heretofore directed to be paid to the jailer. Wherever in any law of the state reference is made to the jailer such reference

shall be deemed to apply to the sheriff, except where the context requires otherwise.

§ 2. All laws and parts of laws in conflict with this act are hereby repealed to the extent of such conflict. That portion of Section 1519 of Carroll's Kentucky Statutes, 1936 Edition, requiring the election of a jailer in each county of the Commonwealth, is hereby repealed.

§ 3. The sheriff shall enter into the exercise of the powers and duties of the office of jailer on and after January 1, 1942. Until that date the powers and duties of the office of jailer, including the collection of fees directed to be paid the jailer, shall be exercised by the jailers now in office, or their successors in the event of a vacancy in the office of jailer before January 1, 1942.

By same.

H. B. 56. AN ACT repealing Chapter Thirteen (13) of the Acts of the Fourth Extraordinray Session of the 1936 General Assembly of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Chapter Thirteen (13) of the Acts of the Fourth Extraordinary Session of the 1936 General Assembly of Kentucky, being Sections 3786-1, 3786-2, 3786-3, 3786-4, 3786-5, 3786-6 and 3786-7 of Baldwin's Kentucky Statute Service supplement, April, 1939, number, to Carroll's Official Kentucky Statutes of 1936, be and the same is hereby repealed in its entirely.

This act shall become effective on and after December 31, 1941.

By same.

H. B. 57. AN ACT relating to revenue and taxation,

imposing a tax equal to three per cent (3%) of the total of all money wagered each day upon race tracks operating meetings under authority of the Kentucky State Racing Commission and all other race tracks where money is wagered, providing the method of payment and collection of said tax, and the allocation of the money collected thereunder.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any person, firm, association, or corporation holding a permit to and conducting a horse race meeting under the authority of the Kentucky State Racing Commission and any and all other persons, firms, associations, or corporations conducting a horse race meeting in this Commonwealth shall pay for the privilege of taking wagers upon said races under the pari-mutuel system or other similar devices, a tax equal to three per cent (3%) of the total of all money wagered or bet each day at such race meeting. Said tax shall be in addition to any and all taxes of every kind and description now by law imposed upon said persons, firms, associations or corporations, but this act shall not be construed as repealing Chapter 10 of the Acts of the Third Extra (Revenue) Session of the General Assembly of Kentucky, of 1936, except to the extent of any conflict herewith.

§ 2. The payment of the tax herein provided shall be accompanied by a report under oath showing the amount of money wagared each day a race meeting is held, and such other information as the Commissioner of Revenue shall require, and the amount of said taxes shall be remitted daily to the Department of Revenue, unless said person, firm, association or corporation operating said race meeting shall execute bond with good and sufficient surety to the Commonwealth of Kentucky that said taxes as provided herein will be paid at the conclusion of said race meeting. Said bond shall be subject to the approval of the Department of Revenue,

which shall administer the collection of said tax. Revenue derived from said tax shall be placed to the credit of the general fund.

§ 3. The Kentucky State Racing Commission is authorized to adjust the percentage that any racing association, subject to the provisions hereof, shall be entitled to take from the amount of money wagered at any meeting held by said association, so as not to work a hardship upon, or materially reduce the income of said association.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed, to the extent of the conflict, provided, however, that it is the intention of the General Assembly that no taxes or licenses now imposed upon and collected from persons, firms, associations or corporations named herein shall be repealed or removed by the provisions of this act.

By same.

H. B. 58. An Act authorizing the Railroad Commission of Kentucky to employ and pay for additional service and persons to that provided for in Sec. 822, Kentucky Statutes, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky that:

§ 1. The Railroad Commission of Kentucky is authorized to employ in addition to the employees set out in Section 822, Kentucky Statutes, rate experts, Commerce experts, traffic experts, transportation experts, technical advisors, statisticians, any and all other employees it deems necessary in the operation of its Department. The salaries and expense incurred in the operation of this Department to be paid out of the appropriations made to the said Railroad Commission of Kentucky.

WHEREAS, it is necessary to employ such additional service at once in addition to the employees set out in Section 822, Kentucky Statutes, for the proper operation of said Department, an emergency is declared to exist and this Act shall become effective on its passage and approval.

By same.

H. B. 59. AN ACT amending and re-enacting Section 2554b-164 of Baldwin's Kentucky Statute Service supplement to Carroll's Official Kentucky Statutes of 1936, being section 63 of Chapter 2 of the 1938 Acts of the General Assembly of Kentucky, an act relating to the regulation of advertising by persons licensed by the State Alcoholic Beverage Control Board.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2554b-164 of Baldwin's Kentucky Statute Service supplement to Carroll's Official Kentucky Statutes of 1936, being section 63 of Chapter 2 of the Acts of the General Assembly of Kentucky of the year 1938, is hereby amended and re-enacted so that as so amended and re-enacted said section shall read as follows:

Except as it may be done in conformity with the provisions of such reasonable rules and regulations relative to advertising as may be adopted by the State Alcoholic Beverage Control Board no holder of such license issued under this act shall advertise or cause or permit to be advertised in any manner any product which he is licensed to manufacture or sell, whether any such advertisement advertises any particular brand or not and whether or not it quotes prices; nor shall any holder of a license issued under this act have or exhibit in a window any sort of display of alcoholic beverages

except in conformity with such reasonable rules and regulations relative to window displays as may be adopted by said board. Nothing in this section shall prohibit, restrict or regulate advertising, including the quotation of prices, in newspapers, magazines or periodicals having a general circulation to regular paid subscribers or patrons.

By same.

H. B. 60. AN ACT repealing, amending and re-enacting sections 2739g-13 and 2739g-65 of Baldwin's 1936 edition of Carroll's Kentucky Statutes, relating to transfers of motor vehicles and providing penalties for violations of certain statutes relating to motor vehicles.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 2739g-13, Baldwin's 1936 edition of Carroll's Kentucky Statutes, relating to transfers of motor vehicles, be repealed, amended and re-enacted, and when so amended and re-enacted shall read as follows:

Whenever an automobile that has been previously registered changes ownership, the registration plates and container shall remain upon such automobile as a part thereof until the expiration of the registration year; subject, however, to the following provisions:

1. No person acting for himself or another shall offer for sale or trade any such automobile without then and there having in his actual physical possession the clerk's receipt for the registration fee for the current year.

2. No person shall sell or trade any such automobile without transferring by endorsement of the owner and delivering to the purchaser the clerk's receipt for the registration fee for the current year.

3. No person acting for himself or another shall buy or trade for any such automobile without receiving the clerk's receipts for registration fee for the current year, endorsed as provided for above.

4. Upon such change of ownership, the purchaser, as the applicant for transfer of registration, shall present to the clerk the endorsed receipt of the original owner together with a copy of bill of sale, both of which the clerk shall retain, and the purchaser shall accompany same with a transfer fee of thirty cents (30c), for which the clerk shall issue a receipt bearing the same data and information as is required on the original receipt, except the change in name or address. For his services hereunder the purchaser shall pay the clerk an additional fee of twenty cents (20c). Said purchaser shall have in his possession a receipt showing such transfer before said automobile shall be operated upon any public highway in this Commonwealth. Provided, if the purchaser junks or otherwise renders the automobile unfit for future use as such he shall be relieved of the duty of transferring registration by the immediate delivery of registration plates, and endorsed receipt and second copy of bill of sale to the clerk, whereupon the clerk shall immediately return said plates, receipt, and copy of bill of sale to the Department of Revenue, and for these services the purchaser shall pay the clerk the sum of fifty (50c) cents. The Department of Revenue shall furnish all necessary blanks and supplies for carrying out the provisions of this Act; said supplies and equipment to be paid for out of the general funds received by the State for the annual licensing of automobiles.

§ 2. That section 2739g-65, Baldwin's 1936 edition of Carroll's Kentucky, Statutes, Providing penalteis for violations of certain statutes relating to motor vehicles, be repealed, amended and re-enacted, and when so amended and re-enacted shall read as follows:

(a) Any person violating the provisions, or any of them,

of sections 2739g-2, 2739g-3, 2739g-4, 2739g-5, 2739g-6, 2739g-7, 2739g-8, 2739g-9, 2739g-10, 2739g-11, 2739g-12, 2739g-13, 2739g-14, 2739g-22, 2739g-23, 2739g-24, 2739g-25, 2739g-26, 2739g-27, 2739g-28, 2739g-29, 2739g-30, 2739g-31, 2739g-32, 2739g-33, 2739g-34, 2739g-35, 2739g-36, 2739g-37, 2739g-38, 2739g-39, 2739g-40, 2739g-41, 2739g-42, 2739g-43, 2739g-44, 2739g-45, 2739g-46, 2739g-47, 2739g-48, 2739g-49, 2739g-50, 2739g-51, 2739g-57, 2739g-61, and 2739g-62, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) for each offense.

(b) Any person violating the provisions, or any of them, of sections 2739g-53, 2739g-54, 2739g-55, 2739g-56, 2739g-59, and 2739g-60, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) nor more than two thousand dollars ($2,000.00) or by imprisonment in the county jail for not exceeding one year, or both by such fine and imprisonment within or to the maximum of both.

(c) The above subsection (a) and (b) shall not be construed in any way as relating to the penalty fixed by section 2739g-58 of this act.

By Mr. Perkins.

H. B. 61. An Act to amend Section 1309 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1309 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any person who carries concealed on or about his person a deadly weapon, other than an ordinary pocket knife shall

be fined not less than two hundred and fifty dollars nor more than five hundred dollars, and imprisoned in the county jail for not less than sixty days nor more than one hundred and eighty days, and shall be excluded from suffrage for two years. Any person convicted a second time of this offense shall be confined in the penitentiary for a period of not less than one nor more than five years.

§ 2. Whereas, the prevalence of crimes growing out of the carrying of concealed deadly weapons demands an increase in the existing penalty, an emergency is declared to exist and this Act shall take effect immediately upon its passage and approval by the Governor.

By Mr. Wagner.

H. B. 62. An Act amending and re-enacting Section 532 of Carroll's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 532 of Carroll's Kentucky Statutes, 1936 Edition, be, and the same hereby is, amended and re-enacted so that when amended and re-enacted said section shall read as follows:

When in the opinion of the coroner, it shall be necessary to have a post mortem examination of a dead person during an inquest, he may employ a competent surgeon or physician for that purpose; and when he has reasonable grounds to believe that death has been produced by poison, may employ a competent chemist to analyze the stomach of the dead person. The fiscal court or county commission of the county in which the body is found shall pay to any physician, surgeon or chemist employed a reasonable compensation for their services.

By Mr. Shaikun.

H. B. 63. AN ACT adopting the law of the Commonwealth of Kentucky the supplement to Carroll's Kentucky Statutes and edited by William Edward Baldwin and Richard Priest Dietzman, issued in April 1939 and October 1939, and known as Baldwin's Kentucky Statute Service.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the supplements to Carroll's Kentucky Statutes edited by William Edward Baldwin and Richard Priest Dietzman, issued in April 1939 and October 1939, and known as Baldwin's Kentucky Statute Service, be and the same are hereby adopted as the law of the Commonwealth of Kentucky, and in all actions and proceedings the law contained therein, including amendatory or supplemental sections may be cited or referred to as the law of the Commonwealth of Kentucky by reference to, or citation of any of said sections, and any of the sections therein may be amended or repealed by the General Assembly of the Commonwealth of Kentucky in the manner now provided by reference to and citation of the section of said service without giving the date or title of act from the section is taken.

WHEREAS this act will save a great deal of labor and time in the investigatoin and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the Governor.

All acts or parts of acts in conflict with this act are hereby repealed.

By same.

H. B. 64. An Act adopting as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky, the

supplement to Carroll's Kentucky Codes Civil and Criminal, compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1939.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That the supplement of Carroll's Kentucky Codes of Practice, Civil and Criminal, compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1939, be and the same is hereby adopted as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky, and in all Civil and Criminal proceedings, the Civil and Criminal Codes contained therein, may be cited or referred to as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky by reference to, or citation of any of said sections, and any of the sections therein may be amended or repealed by the General Assembly of the Commonwealth of Kentucky in the manner now provided by reference to and citation of the section of said supplement to Carroll's Codes of Practice without giving the date or title of the act from which the section is taken.

Whereas this act will save a great deal of labor and time in the investigation and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the Governor.

All acts or parts of acts in conflict with this act are hereby repealed.

By Mr. White.

H. B. 65. AN ACT to amend and re-enact Section 4399-24 Kentucky Statutes, 1936 Revision, Section 4399-25 Kentucky Statutes, 1936 Revision, and Section 4399-30 Kentucky Statutes, 1936 Revision, relating to the election of members

of county boards of education, and providing for educational divisions within the county, and the election of school board members therefrom.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

School board members in independent districts shall be elected from the school district at large for a term of four years by the legal voters of the school districts. County boards of education shall consist of five members, who shall be elected one from each educational division in the county by the legal voters of said division. County school districts shall be divided into five divisions, and it shall be the duty of the county board of education of each county in this state, as soon as practicable after this act goes into effect, but not later than July 1, 1940, to meet and to divide their respective county school districts into five divisions as nearly equal in population as is practicable, and to cause boundaries to be made for such divisions which shall be recorded in a book to be kept in the office of the county board of education. Provided that such divisions shall contain integral voting precincts.

If at the time this act goes into effect there shall be more than two educational divisions in the county which do not have a member on the present board of education, or if the terms expiring in 1940 shall cause more than two educational divisions to be without representation, it shall be determined by lot in such manner as the board of education may direct which two divisions shall hold elections in 1940 and the remaining three divisions shall hold elections in 1942.

Any citizen may except to the action of the board in forming any division, and shall have the right to be heard; and if any citizen residing in any such division shall feel himself aggrieved he shall have the right to prosecute an appeal from the action of the board to the circuit court of

the county, and from the circuit court either party may appeal as is provided in other civil cases.

All elections for members of boards of education shall be by secret ballot. Said ballot shall be on a separate sheet from all other ballots to be used in any election. It shall be the duty of the county clerk to cause to be printed on said ballot the names of all candidates for membership on a board of education, in whose behalf he may be petitioned so to do in writing, by not less than fifty legal voters of the school district in which the candidate lives; provided that in county school districts the petition of a candidate shall contain the names of not less than twenty-five (25) legal voters of the educational division wherein the candidate resides; and provided further that in independent districts embracing cities of the first and second classes the number of such petitioners shall be not less than one hundred (100). The petition must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons and shall show the place of residence of each person signing it, and no person shall sign more petitions than the number of offices to be filled.

Said ballot shall be in the form prescribed for ballots by the general election law of the Commonwealth, except that no party emblems or other emblem or distinguishing mark shall be placed upon said ballot, save the words "School Ballot" at the head thereof; and that the names of all candidates for membership on the board of education shall be printed on the first fifty ballots in a single column in the order the petitions are filed. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last name on the preceding fifty ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots; and such ballots shall be so bound that in the book

of ballots for each voting precinct each candidates name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected.

The general election laws of the Commonwealth of Kentucky shall apply in all school elections except as set out in this act; and provided that it shall be the duty of the sheriff of each county in which a school district is situated to provide for each precinct in such district a separate box for the reception of the ballots used in the election of members of the board of education; and provided further that it shall be the duty of the judge of election of the opposite political party to the clerk of election in each precinct to issue the school ballots in same manner as other ballots are issued by the clerk of election, by writing the name and residence of the voter upon the primary stub and his registered number, in districts where registration is required by law, upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally. It shall be unlawful for an election officer or other person within the election booth to tell or to indicate by word or mouth or otherwise to a voter what may be the political affiliation of any candidate, and a violation of this provision shall be a misdemeanor punishable by fine not exceeding two hundred dollars ($200.00). The expense of said election shall be paid by the fiscal court out of the general funds of the county in all school districts except those embracing cities of the first five classes; in such the expense of the election shall be paid by the city from its general fund.

Any vacancy in any board of education, from whatever cause occuring, shall be filled for the unexpired term by the other members of the board within 90 days after such vacancy occurs, and in case the vacancy is not filled by the other members of the board within said 90-day period, it

shall be filled by the State Board of Education within 30 days after information has been filed by any citizen of the district that such vacancy has existed for more than 90 days. The members so chosen shall reside in the educational district or division in which the vacancy occurs, and shall hold office for the unexpired term and until his successor is elected and qualified.

By same.

H. B. 66. AN ACT relating to and providing for the extension of teacher's certificates in the Commonwealth of Kentucky; the length of time and by whom extended; providing for the payment of fee in connection with the extension of same; and declaring the terms under which same may be extended..

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any teacher who has taught school in the State of Kentucky for twenty years or more prior to the effective date of this Act shall have or is entitled to have issued to him or her a certificate permitting him or her to teach in the elementary schools of the state for life and this Act shall apply to certificates issued under Chapter 13 Special Sessions, 1934. Provided however, such application shall be accompanied by a fee of Two Dollars ($2.00), to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Fund.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Lee.

H. B. 67. An Act relating to old age assistance and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 3766bb-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The state agency administering this Act shall provide a reasonable subsistence for those eligible for old age assistance. The amount of assistance to any person shall be determined by the state agency, with due regard to the conditions existing in each case, and subject to rules, regulations and standards set up by the Department of Welfare; but in no case shall the amount awarded any individual *be less than twenty dollars nor exceed thirty dollars per month.*

§ 2. Section 3766bb-4 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

There is created in the Department of Welfare the division of public assistance, which shall be in charge of a director, appointed by the Governor for a term of four years. The salary of the director shall be three thousand six hundred dollars per annum. The Department of Welfare shall prescribe the form of, and supply, necessary blanks and forms. The Department of Welfare shall make regulations for determining or establishing the date of birth or age of all applicants for assistance for determining their need for assistance, and for further carrying out the provision of this Act.

The amount of assistance granted any applicant may be changed or discontinued at any time upon investigation of the need for assistance. This Act shall be administered uniformly throughout the state, and there shall be no discrimination in the amount of assistance awarded different applicants, except as based on the varying costs of living in different parts of the state. The director of the division of public assistance and all official representatives and field investigators of the division may administer oath to any

person questioned for the purpose of determining the eligibility for assistance of any applicant, and may take acknowledgments of documents needed for the administration of this Act.

§ 3. Section 3766bb-13 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any person who by means of willfully false statement or representation, by impersonation or other fraudulent device, obtains, attempts to obtain, or aids or abets any person to obtain assistance to which he is not entitled, greater assistance than that to which he is entitled, or payment of any forfeited installment grant shall be fined not less than fifty dollars nor more than five hundred dollars.

§ 4. Section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, and Chapters 56, 57 and 58 of the Acts of 1938, compiled as sections 3766bb-11a, 3766bb-11b and 3766bb-17 of Baldwin's Kentucky Statutes Service, May, 1938, are repealed.

§ 5. All liens created and all reimbursement agreements executed pursuant to Chapter 94 of the Acts of 1936, not enforced by collection at the time this Act takes effect, are void.

§ 6. Since many aged persons are greatly in need of the additional assistance authorized by this Act, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Daugherty.

H. B. 68. An Act to repeal subsection 9 of Section 518 of the Civil Code of Practice of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That subsection 9 of section 518 of the Kentucky Civil Code of Practice be and the same is hereby repealed.

By Mr. Carter.

H. B. 69. AN ACT to regulate and license real estate brokers and salesmen and to create a state real estate board; to amend Section 4618-120, Carroll's Kentucky Statutes, 1936 Edition, and to repeal Chapter 32 of the Acts of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act, unless the context requires otherwise:

(1) "Real estate broker" means any person who with or without compensation, sells, buys, leases, rents, or offers to sell, buy, lease or rent, or negotiates the purchase, sale or exchange of real estate or the improvements thereon, or collects or offers to collect rent for the use of real estate or negotiates or offers to negotiate a loan secured by lien on real estate, for others, as a whole or partial vocation.

(2) "Real estate" includes leaseholds and other interests less than freeholds.

(3) "Real estate salesman" means any person who for compensation is employed by a real estate broker to do any of the things mentioned in subsection (1) of this section, as a whole or partial vocation.

(4) "Board" means the Kentucky Real Estate Board.

§ 2. *Application of Act.* (1) Any single act or transaction constitutes the person doing it a real estate broker or real estate salesman.

(2) This Act does not prevent a bona fide owner or lessee, or his regular employes, from doing any of the things hereinbefore mentioned with respect to real estate owned or

leased by him, if in the performance of, or as an incident to, the management or investment of his real estate.

(3) This Act does not apply to:

(a) Attorneys-in-fact acting under a power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, lease or exchange of real estate.

(b) Attorneys at law performing legal services for a client.

(c) Receivers, trustees in bankruptcy, personal representatives, or persons selling real estate under order of a court or as trustee under an instrument of trust.

(d) Auctioneers who sell real estate solely at auction.

§ 3. *License required.* (1) No person shall act, advertise or assume to act, as a real estate broker or real estate salesman without license issued by the Board.

(2) No association, partnership or corporation shall be licensed unless every member and officer who actively participates in the brokerage business holds a license as a real estate broker, and every employe who acts as a salesman holds a license as a real estate salesman.

(3) No person shall be licensed as a salesman unless he is employed by a licensed broker.

(4) No person who has been licensed as a real estate salesman shall be licensed as a real estate broker until he has had three years experience as a real estate salesman.

§ 4. *Licensing nonresidents.* (1) A nonresident otherwise qualified may be licensed by conforming to all the provisions of this Act, if the state of his residence offers the same privilege to residents of this state.

(2) A nonresident holding a license as a real estate broker or real estate salesman issued by the state of his residence under laws substantially similar to this Act, and maintaining an active place of business in that state, may be licensed without examination upon filing with Board a cer-

tified copy of his license. No renewal shall be granted unless the nonresident files a certificate of the licensing authority of his state that his license is still in force.

(3) Before being issued a license every nonresident applicant shall file with the secretary of the Board duplicate acknowledged instruments designating the Secretary of State his agent for service of process or pleadings in any action accruing in, and commenced in a court of, this state, one of which shall be forwarded to the Secretary of State. Service may be made upon the Secretary of State by delivering two copies of the process or pleadings to him or at his office and paying him a fee of two dollars, and his certificate showing such service shall be proof of service. The Secretary of State shall immediately forward one copy by registered mail to the last known business address of the licensee and file the other copy and make a record of the day and house of receiving service.

§ 5. *Kentucky Real Estate Board.* The Kentucky Real Estate Board shall consist of five members, appointed by the Governor, each of whom has been a resident of this state and whose vocation has been that of a real estate broker or real estate salesman for at least ten years, and has a High School education. These qualifications shall be proved by affidavit of at least three residents of this state. Two members shall be appointed for a term of one year, two members for two years, and one member for three years, and until their successors are appointed and qualify. Thereafter the term of the members shall be for three years and until their successors are appointed and qualify. Appointments to fill vacancies shall be for the unexpired term. The Board immediately upon the qualification of the members appointed in each year shall select from its members a chairman.

§ 6. *Rules and regulations.* The Board may promulgate necessary rules and regulations to carry this Act into effect.

§ 7. *Compensation and expenses of members.* Each member of the Board shall receive as full compensation for each day actually spent on the work of the Board ten dollars and his actual and necessary expenses.

§ 8. *Secretary; assistants; office space.* The head of the Division of Professional Regulation shall be secretary of the Board. The Board may employ necessary assistants, determine their duties and compensation, and obtain necessary office space, equipment and supplies.

§ 9. *Seal; records.* The Board shall adopt a seal by which it shall authenticate its proceedings. Section 4618-161 applies to the records of the Board.

§ 10. *Application for license.* Every applicant for a license shall apply in writing upon blanks prescribed and furnished by the Board. Every application for a salesman's license shall be signed by the applicant's employer.

§ 11. *Bond.* Every application shall be accompanied by a bond, in a form approved by the Board, in the sum of one thousand dollars, executed to the state by a surety company authorized to do business in this state and conditioned that the applicant will comply with this Act. Suit may be brought on the bond, in the name of the state, by and for the benefit of any person injured.

§ 12. *Fees.* (1) Every application shall be accompanied by the license fee. If the Board does not issue the license the fee shall be returned.

(2) The original fee for a broker's license is fifteen dollars, and the renewal fee is ten dollars. The original fee for a salesman's license is ten dollars, and the renewal fee is five dollars.

§ 13. *Examination; qualifications.* (1) Before a license is issued to an individual he shall pass an examination conducted by the Board, which shall include such subjects as will indicate the general knowledge and education of the applicant, and his knowledge of the statutes of the state con-

cerning real property, conveyances, contracts and landlord and tenant. Examinations may be held at such places as the Board designates.

(2) No license shall be issued unless the applicant produces satisfactory evidence of his good moral character and qualifications.

(3) The Board may refuse to issue a license for any reason that it may revoke or suspend a license.

§ 14. *Issuance of licenses; form.* (1) The Board shall issue to each licensee a license, in such form as the Board prescribes, bearing the imprint of the Board's seal.

(2) The license of each salesman shall be delivered or mailed to his employer and kept in the custody and control of the employer.

(3) Each broker shall conspicuously display his license in his place of business. If he maintains more than one place of business duplicate licenses shall be issued without charge and displayed in each place.

(4) Notice in writing shall be given the Board by each licensee of any change of principal business location, and the Board shall then issue a new license for the unexpired period without charge. A change of business location without notification shall automatically cancel the license theretofore issued.

§ 15. *Pocket card.* The Board shall furnish to each licensee a pocket card, bearing an imprint of the Board's seal and certifying that the person whose name appears thereon is a licensed real estate broker or salesman, as the case may be, and if a salesman's card, containing the name and address of his employer. Upon revocation of his license, the licensee shall return the pocket card to the Board.

§ 16. *Expiration and renewal of licenses.* Every license shall expire on June 30 each year. The Board shall issue a new license for each ensuing year, in the absence of cause warranting refusal, upon receipt of written request

and the renewal fee, on or before June 30. If application for renewal is not made on or before June 30 the license may be renewed only on payment of the fee for an original license. A licensee who retires from active practice for not more than five years may obtain a new license without examination. A salesman whose employment is terminated before June 30, and who is not again employed until after June 30, may obtain a new license on securing employment during the ensuing license year by paying the renewal fee.

§ 17. *Termination of salesman's employment.* (1) When a salesman's employment is terminated the broker by whom he was employed shall immediately deliver or mail by registered mail to the Board the salesman's license or furnish satisfactory reason for failing so to do. At the same time the broker shall mail a notice to the last known residence address of the salesman that his license has been delivered to the Board. A copy of the notice shall be sent to the Board with the license.

(2) No salesman shall perform any of the acts contemplated by this Act under the license after it has been sent to the Board, or after his employment has been terminated.

(3) No new license shall be issued to the salesman until he returns his former pocket card to the Board or satisfactorily accounts for it.

(4) The revocation of a broker's license automatically suspends the license of every salesman employed by him. Upon securing new employment the salesman shall be issued a new license without charge for the balance of the license years.

(5) Not more than one license shall be issued to any salesman for the same period of time.

§ 18. *Revocation or suspension of license.* (1) The Board may upon its own motion, and shall upon the verified complaint in writing of any person, if the complaint together with evidence presented therewith makes out a prima facie

case, investigate the actions of any broker or salesman or any person acting as such, and may suspend a license or revoke and deny the right to obtain a license for a period not exceeding five years when the licensee has in this state or elsewhere:

(a) Obtained the license by fraud or false representation, or

(b) Made any substantial misrepresentation or false promise of a character likely to influence, persuade or induce, through agents, advertising or otherwise, or

(c) Acted for more than one party in a transaction without the knowledge of all parties for whom he acts, or

(d) Accepted compensation for services as a real estate salesman from any person except his employer, or

(e) Represented or attempted to represent a broker other than his employer, without the express consent of the employer, or

(f) Failed, within a reasonable time, to account for or remit any money coming into his possession which belongs to others, or

(g) Paid compensation to any person for acts or services performed in violation of this Act, or

(h) Been guilty of any fraudulent or dishonest conduct, or

(i) Been convicted of a crime an essential element of which is dishonesty or fraud, or

(j) Committed or aided in the commission of any act in violation of this Act.

(2) The commission of an act by a salesman, employe, partner or associate of a licensed broker shall be cause for revocation or suspension of the license of the broker if he had guilty knowledge thereof.

(3) If the license of any member, officer or employe of a partnership, association or corporation is revoked, cancelled or expires, the license issued to the partnership, as-

sociation or corporation shall be revoked unless the member, officer or employe ceases to participate in its brokerage business.

§ 19. *Hearing to be had; notice.* (1) No license shall be suspended or revoked without a hearing by the Board. If an applicant for a license is denied, a hearing shall be held on written application of the applicant. Hearings may be held at such places in the state as the Board designates.

(2) The Board shall give the applicant or licensee twenty days' written notice, containing an exact statement of the charges made or the reasons for denial of a license, and of the time and place of hearing. If the applicant or licensee is a salesman the Board shall also notify his employer. Notice may be served personally or by registered mail to the last known address.

§ 20. *Witnesses; evidence.* (1) The secretary or any member of the Board may administer oaths, issue subpoenas to any place in the state, and authorize the taking of depositions.

(2) The Board shall, on the request of any party, issue subpoenas for the attendance of witnesses in his behalf.

(3) Any circuit court, or judge thereof in vacation, having jurisdiction of the person, may compel obedience to subpoena or require the giving of testimony by proceedings for contempt.

(4) Fees for witnesses and service of subpoenas shall be the same as in civil actions in circuit courts, and paid in advance by the party in whose behalf the witnesses are summoned.

§ 21. *Conduct of hearings.* (1) The Board may receive evidence, and the testimony shall be taken down by a reporter.

(2) The proceedings shall be summary, in accordance with the rules of the Board. The parties shall not be bound by rules of legal evidence.

(3) The parties are entitled to be heard in person and by counsel.

(4) If an applicant or licensee does not appear, the hearing may proceed in his absence, but on motion or application of a party the Board may grant a continuance for cause.

(5) The Board shall keep a record of proceedings in the hearing, including the pleadings, evidence received, written findings of fact and conclusions of law, orders and other matters pertinent to the issue.

§ 22. *Orders.* The Board shall make an order within twenty days of the close of the hearing. Immediately upon the entry of the order the Board shall serve a copy on the applicant or licensee by personal delivery or by registered mail to his last known address. The order shall not take effect until personally delivered or until the expiration of five days after mailing.

§ 23. *Appeal; how taken.* Any person having an interest in the order may, within twenty days after service of the order, appeal to the Franklin Circuit Court by filing a verified petition, stating grounds on which review is sought, with the clerk of the court, who shall issue summonses against the Board and adverse parties. The case shall be docketed and practiced as a case in equity but shall be advanced for hearing over other equity cases.

§ 24. *Transcript.* Within ten days after written request by any party the Board shall furnish him at cost a certified transcript of the record or any part requested. No part of the record except an agreed abstract shall be considered on appeal unless a certified transcript thereof is filed with the clerk at least ten days before trial.

§ 25. *Powers of court; order may be stayed.* The court may sustain, modify or reverse the order, or remand the case to the Board for proceedings in conformity with the direction of the court. The court or judge in vacation may

suspend the operation of the order pending appeal on such terms as it deems just.

§ 26. *New evidence.* No evidence, except as to fraud affecting the order, shall be received on appeal unless the court is satisfied that the evidence could not have been procured for use at the hearing by reasonable dilligence and will materially affect the merits, in which case the court may hear the evidence or remand the case to the Board with directions to hear the evidence and enter a new order.

§ 27. *Grounds for reversal or modification.* The court may reverse or modify the order only if:

(1) The Board acted without or in excess of its power, or

(2) The order was procured by fraud, or

(3) The findings of fact are not supported by any substantial evidence.

§ 28. *Appeals to Court of Appeals.* Appeals may be taken to the Court of Appeals as in other civil cases. The appeal may on motion be advanced over other civil cases.

§ 29. *License necessary to obtain compensation.* No person shall recover in an action for the collection of compensation for services performed as a real estate broker or salesman without alleging and proving that he was licensed at the time the services were performed.

§ 30. *Contracts and compensation.* In any action for the collection of compensation for services performed as a real estate broker, or involving the terms of a contract to render such services, proof that the person claiming compensation for the services or attempting to enforce the contract was a licensed broker at the time the services were performed is prima facie evidence that the compensation is reasonable and that there was a contract to pay the same.

§ 31. *Publication of lists of licenses.* The Board shall publish, at least once a year, a list of the names and addresses

of all licensees, and of all persons whose licenses have been suspended or revoked within one year, together with such other information relative to the enforcement of this Act as it deems of interest to the public. One list shall be mailed to each county clerk and held by him as a public record. Lists shall also be mailed to any person in the state upon request.

§ 32. *Power of cities to tax.* This Act does not limit the power of cities authorized by other laws to tax, license or regulate real estate brokers. The requirements of this Act are in addition to the requirements of any ordinance of such cities taxing, licensing or regulating real estate brokers. In case of conflicting regulations, compliance with this Act is sufficient.

§ 33. *Penalty.* (1) Any person violating this Act shall be fined not less than twenty-five dollars nor more than one hundred dollars for the first offense, and not less than fifty dollars nor more than two hundred dollars for each subsequent offense.

(2) The commission of any act referred to in paragraphs (a) to (g) of subsection (1) of section 18 is a violation of this Act.

§ 34. Section 4618-120 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) The division of professional regulation, headed by a secretary, under the supervision of the Commissioner of Business Regulation, shall supervise the licensing of all architects, accountants, *real estate brokers and real estate salesmen,* barbers and beauticians, chiropractors, dentists, embalmers, trained nurses, pharmacists and veterinary examiners. The Board of Examiners and Registration of Architects, the Board of Accountancy, *the Kentucky Real Estate Board,* the Board of Barber and Beautician Examiners, the Board of Chiropractic Examiners, the State Board of Dental Examiners, the State Board of Embalmers

of Kentucky, the State Board of Examiners of Trained Nurses, the Kentucky Board of Pharmacy, and the State Board of Veterinary Examiners, shall continue as separate agencies, financed as provided by law; but shall clear all matters of administration, except the examination of applicants for licenses, through the division of professional regulation in a manner approved by the Commissioner of Business Regulation.

(2) The office of the secretary of the division of professional regulation shall be financed by assessments on the *funds of the Boards* named herein on an equitable basis approved by the Commissioner of Finance.

(3) In the event any appointments to boards authorized by law, whether named in this section or not, are made from lists submitted to the Governor, he may reject any such list and require submission of other lists.

§ 35. (1) Chapter 32 of the Acts of 1938, compiled as Sections 3990e-1 to 3990e-13 of Baldwin's Kentucky Statute Service, May, 1938, is repealed.

(2) The equipment, supplies, records and files of the State Real Estate Board created by Chapter 32 of the Acts of 1938, on hand at the time this Act goes into effect, shall become the property of the Kentucky Real Estate Board.

§ 36. (1) All moneys collected by the Kentucky Real Estate Board shall be paid into the State Treasury and credited to a revolving fund, which is hereby appropriated to the Board for ordinary recurring expenses of operation for the fiscal years beginning July 1, 1940, and July 1, 1941.

(2) Upon application of the Board, the Department of Finance shall direct the Treasurer to advance out of the General Expenditure Fund not exceeding five hundred dollars to the Board to defray initial expenses. As soon as the Department of Finance determines that there are sufficient funds in the revolving fund created in subsection (1) of

this section, the General Expenditure Fund shall be reimbursed out of the revolving fund for the amount so advanced.

By Mr. Moebus.

H. B. 70. An Act to repeal, amend and re-enact Section 3, Chapter 67 of the Acts of March 19, 1908, known as Section 331e-3, Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 3, Chapter 67 of the Acts of March 19, 1908, known as Section 331e-3, Carroll's Kentucky Statutes, shall be repealed, amended and re-enacted so that said section when amended and re-enacted shall read as follows:

The county courts of the several counties of this state shall have authority to appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers during the pleasure of the court without any compensation whatsoever. In counties having a city of the second class the county court may appoint one probation officer, who shall be designated as chief probation officer, and who shall receive a salary of not exceeding twenty-four hundred dollars ($2,400.00) per annum, to be fixed by the county judge; one or more assistant probation officers, one of whom shall receive a salary of not exceeding eighteen hundred dollars ($1,800.00) per annum, and all other assistants so appointed shall receive a salary not exceeding one thousand dollars ($1,000.00) per annum, such salaries to be fixed by the judge of the county court. Such salaried probation officers shall be allowed their actual and necessary expenses incurred in the performance of their duties; said salaries are expenses to be paid as provided herein. All

such salaried probation officers shall have all the powers of sheriffs and county patrolmen in making arrests.

In counties having a city of the first class the county court may appoint one probation officer, who shall be designated as chief probation officer, and who shall receive a salary of not exceeding three thousand dollars ($3,000.00) per annum, to be fixed by the county judge; one or more assistant probation officers, one of whom shall receive a salary of not exceeding two thousand dollars ($2,000.00) per annum, and all other assistants so appointed shall receive a salary not exceeding fifteen hundred dollars ($1,500.00) per annum, such salaries to be fixed by the judge of the county court. Such salaried probation officers shall be allowed their actual and necessary expenses incurred in the performance of their duties; said salaries and expenses to be paid as provided herein. All such salaried probation officers shall have all the powers of sheriffs and county patrolmen in making arrests.

By Mr. Walters.

H. B. 71. AN ACT authorizing the fiscal court of any county to institute condemnation proceedings to acquire lands for public roads, streets, alleys, ditches, and bridges; providing for the duties of the county attorney and the appointment of commissioners to assess damages; providing for the land owner to file exceptions and have a jury trial; providing for appeals to the Circuit Court and to the Court of Appeals and providing for a transfer of the action to the Circuit Court where there are conflicting claimants to the land condemned.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Whenever the Fiscal Court of any County deems

it to be in the best interests of such county to open, establish, construct, alter or repair any public road, street, alley, ditch or bridge of said county and said Fiscal Court shall require for such purpose land (or land in addition to that over which the county already has easments of way) and the Fiscal Court is unable to contract with the owner of the land required for its purchase or to acquire the same by gift, then the Fiscal Court shall adopt a resolution setting forth the foregoing facts and ordering the condemnation of the required land, giving a general description thereof, together with the name or names of the owners thereof, where such names are known to said Fiscal Court. Such resolution shall direct the county attorney to proceed with the condemnation of such land, as hereinafter set forth.

§ 2. The county attorney shall file a petition in the county court in the name of the county praying said court to appoint commissioners to assess the damages the owner or owners of the land to be condemned may be entitled to receive, attaching to such petition a certified copy of the resolution of the Fiscal Court referred to in Section 1 hereof as an exhibit. Such resolution shall be prima facie evidence of the public use and necessity for the condemnation. Thereupon, the county court shall appoint three impartial residents of the county who are owners of land to serve as commissioners, who shall be sworn faithfully and impartially to discharge their duties under this Act.

§ 3. It shall be the duty of said commissioners to view the land to be condemned and to award the owner or owners the market value thereof, which shall include the value of any trees or shrubbery taken, the market replacement value of fencing similar to any taken, and the damages, if any, resulting to any adjacent remaining lands of the owner, considering the purpose for which the land is taken. Each of the foregoing items of value or damage shall be stated separately. In fixing the amount of damages to the remaining land, the

commissioners shall take into consideration any benefits which will accrue to such remaining adjacent land of the owner by reason of the construction of the proposed improvement and shall deduct the amount thereof from such incidental damages, if any. The commissioners shall prepare their report in writing, stating their award, as aforesaid, describing the land condemned, giving the names of the owners, whether they are non-residents, of unsound mind, or married women, and shall return such report to the office of the clerk of said court.

§ 4. When the commissioner's report has been filed, upon application of the county attorney, the clerk of the county court shall issue process against the owners of the land to be condemned to show cause why the report of the commissioners should not be confirmed.

§ 5. At the first regular term of the court after the owners shall have been summoned the length of time prescribed by the Civil Code of Practice before an answer is required, it shall be the duty of the court to examine the commissioner's report, and, if it appears to be in conformity with this Act, the court shall confirm said report as against owners not excepting thereto or to the extent that no exceptions have been filed thereto by either party.

§ 6. When either party files exceptions to the commissioner's report, the court shall fix a day for trial and on that day shall cause a jury to be impaneled to try the issues of fact made by the exceptions. Each juror shall be allowed one dollar per day for his services, to be taxed as costs. In assessing the damages, the jury shall be governed by the same rules as those prescribed for the commissioners in Section 3 of this Act. Upon request of either party, after all testimony has been submitted to them, the jury may be sent by the court, in charge of the sheriff, to view the land. If sufficient cause be not shown for setting aside the verdict, the court shall render judgment in conformity thereto and

shall make such orders as may be proper for the conveyance of the title to the county upon payment of the damages assessed.

§ 7. Either party may appeal to the circuit court within thirty days from the date of the judgment, and the appeal shall be tried de novo in the same manner as in the county court. If said appeal is taken by the property owner or other party defendant, then the party so appealing shall file a supersedeas bond, as herein provided. If the county appeals, it shall not be necessary for said appellant to file such a supersedeas bond.

§ 8. Upon payment by the county to the owners of damages awarded by the commissioners' report, where such report is confirmed, or payment by the county into court of damages awarded by the jury, together with all costs adjudged to the owner, the county shall be entitled to take possession of the land condemned and to use and control the same for the purpose for which it was condemned as fully as if title had passed to the county. All monies paid into court under the provisions of this Act shall be received by the clerk of the court and held subject to the order of the court. The clerk and the sureties on his official bond shall be responsible to the persons entitled to such monies.

§ 9. The appeal from the county court to the circuit court shall be taken by filing with the clerk of the circuit court a statement of the parties to the appeal and a certified copy of the judgment of the county court, and thereupon said clerk shall certify to the clerk of the county court that said appeal has been filed, and the clerk of the county court shall immediately transfer the original papers to the clerk of the circuit court. If the owner on his appeal shall fail in the circuit court to increase the amount of damages awarded in the county court, he shall pay all the costs of the appeal and repay to the county any sum he has received in excess of the amount awarded to him by the circuit court, plus

interest at the rate of six percent on the difference between such awards from the date of the county court judgment, whether or not he has received the same. If the damages are increased in the circuit court, the county shall pay all costs of the appeal, plus interest at the rate of six percent on the difference between the amount of the awards of the county court and the circuit court. The same rule as to payment of costs and interest shall apply if the county takes the appeal.

§ 10. In all cases where there are conflicting claimants to the land condemned, and where all such claimants are before the county court in the condemnation proceedings, the condemnor, after the damages have been assessed in the county court, may, by motion, have the case transferred to the circuit court of the county in which the condemnation proceedings are pending, for the purpose of having the rights of respective claimants in the land condemned determined, and upon filing the order of transfer in the office of the clerk of the said circuit court, the condemnor may pay the damages assessed in the county court to the master commissioner of said circuit court, to be by him held for the benefit of, and paid over to such of said claimants as the circuit court, or the court of appeals, on appeal, may determine are entitled thereto. The condemnor, upon making such payment to said commissioner, may immediately take possession of the land condemned.

The circuit court clerk shall docket all such cases so transferred as other civil cases are docketed, and same shall thereafter proceed between said conflicting claimants to trial and judgment as if the action had originated between them in said court.

The transfer of any condemnation case as herein provided shall in no way affect the right of any party to the condemnation proceeding to appeal to the circuit court and

thence to the court of appeals, as authorized by this section and as set forth in Section 9 of this Act.

§ 11. This Act shall create an additional and alternate method for the institution and prosecution of condemnation proceedings to acquire rights of way for county roads, streets, alleys, ditches and bridges, and shall not repea any act providing another method for acquiring same.

Whereas, it is necessary for various counties in the Commonwealth to obtain rights of way promptly in order to carry out projected road programs, an emergency is hereby declared to exist, and this Act shall take effect and be in full force and effect from and after its passage and approval by the Governor.

By Mr. Carter.

H. B. 72. AN ACT to regulate auctioneers, assistants at auction sales and auction marketing commissions, to create a state auction marketing board, and to amend section 4618-120 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* (1) As used in this Act, unless the context requires otherwise:

(a) "Auctioneer" means any individual who furnishes or contracts to furnish his own services or the services of others at an auction sale as the crier or to personally receive the bids and make known to the persons present the bids during the sale and declare who the highest bidder is.

(b) "Auction assistant" means any individual employed by an auctioneer to perform any of the services mentioned in sub-section (a) of this section, or to act as a ringman.

(c) "Auction sale" means a public sale of one or more articles of property, real or personal, to the highest bidder.

(d) "Auction marketing commission" means any person or association of two or more persons, incorporated or otherwise, who operate or conduct at a special place an auction sale of property for themselves or others, or who set up or maintain facilities for such an auction sale, or who receive, accept or buy for the sole purpose of selling at auction sale at a special place the property of others, on consignment, commission or otherwise; but does not include a tobacco warehouseman.

(e) "Board" means the Kentucky Auction Marketing Board.

(f) "Commission" means an Auction Marketing Commission.

(2) This Act does not apply to:

(a) Trustees acting in pursuance of a trust instrument, receivers, trustees in bankruptcy, personal representatives or persons selling property under order of a court.

(b) Attorneys at law performing legal services for a client.

(c) Lessors of real estate not furnishing any other service mentioned in subsection (1) of this section.

(d) Bona fide owners of property acting for themselves, who have not bought the property for the sole purpose of selling at an auction sale.

(e) Buyers at an auction sale.

(f) Employers of the buyer or seller who merely purchase, or handle the property, or who authorize the auction sale for the seller.

§ 2. *License required.* (1) No person shall act, advertise or assume to act as an auctioneer or auction assistant without a license issued by the Board.

(2) No person shall be licensed as an auction assistant unless he is employed by a licensed auctioneer.

(3) No person shall act, advertise or assume to act as an auction marketing commission without a license issued by the Board. A Commission must obtain a separate license for each place it furnishes or operates for holding auction sales.

§ 3. *Licensing nonresidents.* (1) A nonresident otherwise qualified may be licensed under this Act if the state of his residence offers the same privilege to residents of this state.

(2) A nonresident holding a license as an auctioneer or auction assistant issued by the state of his residence under laws substantially similar to this Act, may be licensed without examination upon filing with the Board a certified copy of his license. No renewal shall be granted unless the nonresident files a certificate of the licensing authority of his state that his license is still in force.

(3) Before being issued a license the nonresident shall file with the secretary of the Board duplicate acknowledged instruments designating the Secretary of State his agent for service of process or pleadings in an action accruing in, and commenced in a court of, this state, one of which shall be forwarded to the Secretary of State by delivering two copies of the process or pleadings to him or at his office and paying him a fee of two dollars, and his certificate showing such service shall be proof of service. The Secretary of State shall immediately forward one copy by registered mail to the last known business address of the licensee and file the other copy and make a record of the day and hour of receiving service.

§ 4. *Kentucky Auction Marketing Board.* The Kentucky Auction Marketing Board shall consist of five members, appointed by the Governor, each of whom has been a resident of this state and engaged in the vocation of selling or operating a place for sale of property at auction for at least fifteen years, and has never been convicted of a

felony or had a license issued under this Act revoked or suspended. Two members shall be appointed for a term of one year, two members for two years, and one member for three years and until their successors are appointed and qualify. Thereafter the term of the members shall be for three years and until their successors are appointed and qualify. Appointments to fill vacancies shall be for the unexpired term. Immediately upon the qualification of the members appointed in each year the Board shall select from its members a chairman.

§ 5. *Rules and regulations.* The Board may promulgate necessary rules and regulations to carry this Act into effect, with a complete Code of ethics.

§ 6. *Compensation and expenses of members.* Each member shall receive as full compensation for each day actually and necessarily spent in the work of the Board ten dollars and his actual and necessary expenses.

§ 7. *Secretary; assistants; office space.* The head of the Division of Professional Regulation shall be secretary of the Board. The Board may employ necessary assistants, determine their duties and compensation, and obtain necessary office space, equipment and supplies.

§ 8. *Seal; records.* The Board shall adopt a seal by which it shall authenticate its proceedings. Section 4618-161 applies to the records of the Board.

§ 9. *Application for license.* (1) Every applicant for a license shall apply in writing upon blanks prescribed and furnished by the Board.

(2) Every application for a commission license shall state the name and address of every person who has any financial interest in the business to be operated by the applicant.

§ 10. *Bond.* (1) Every application shall be acccompanied by a bond, in a form approved by the Board, in the

sum of one thousand dollars, executed to the state by a surety company authorized to do business in the state, and conditioned that the applicant will comply with this chapter. Suit may be brought on the bond in the name of the state by and for the benefit of any person injured.

(2) If the application is for a commission license, a similar bond shall be executed by every person having an ownership interest in the business to be conducted by the licensee, or who is employed in a capacity of trust in the business. The persons required to execute bond shall be designated by the Board.

§ 11. *Fees.* (1) Every application shall be accompanied by the license fee. If the Board does not issue the license the fee shall be returned.

(2) The original fee for an auctioneer's license is fifteen dollars, and the renewal fee is ten dollars.

(3) The original fee for an auction assistant's license is ten dollars, and the renewal fee is five dollars.

(4) The fee for a commission license is fifty dollars per annum for each place it furnishes or operates for holding auction sales.

§ 12. *Examination; qualifications.* (1) Before an auctioneer's or auction assistant's license is granted the applicant shall pass an examination conducted by the Board, which shall include such matters and be held at such places as the Board prescribes.

(2) No license shall be issued unless the applicant produces satisfactory evidence of his good moral character and ability.

(3) The Board may refuse to issue a license for any reason that it may revoke or suspend a license.

§ 13. *Issuance of license; form.* (1) The Board shall issue to each licensee a license, in such form as the Board prescribes, bearing the imprint of the Board's seal.

(2) The license of each auction assistant shall be delivered or mailed to his employer and kept in the custody and control of the employer.

(3) Each license issued to a commission shall show the place authorized for conducting auction sales.

(4) Each commission shall conspicuously display its license at the place authorized for holding auction sales.

§ 14. *Pocket card.* The Board shall furnish to each licensed auctioneer and auction assistant a pocket card bearing an imprint of the Board's seal and certifying that the person whose name appears thereon is a licensed auctioneer or auction assistant, as the case may be. Each assistant's card shall state the name and address of his employer. Each licensee shall display his card to any person on request. Upon revocation of his license the licensee shall return his card to the Board.

§ 15. *Advertising.* All advertising or literature distributed by a licensee shall bear his license number.

§ 16. *Expiration and renewal of licenses.* Every license shall expire on June 30 each year. The Board shall issue a new license for each ensuing year, in the absence of cause warranting refusal, upon receipt of written request and the renewal fee on or before June 30. If application for renewal is not made on or before June 30 the license may be renewed only on payment of the fee for an original license. A licensee who retires from active practice for not more than five years may obtain a new license without examination.

§ 17. *Termination of assistant's employment.* (1) When an auction assistant's employment is terminated the auctioneer by whom he was employed shall immediately deliver or mail by registered mail to the Board the assistant's license or furnish satisfactory reason for failing so to do. At the same time the auctioneer shall mail a notice to the last known residence address of the assistant that his license has

been delivered to the Board. A copy of the notice shall be sent to the Board with the license.

(2) No assistant shall perform any of the acts contemplated by this Act under the license after it has been sent to the Board, or after his employment has been terminated.

(3) No new license shall be issued to the assistant until he returns his former pocket card to the Board or satisfactorily accounts for it.

(4) The revocation of an auctioneer's license automatically suspends the license of every assistant employed by him. Upon securing new employment the assistant shall be issued a new license without charge for the balance of the license year.

(5) Not more than one license shall be issued to any assistant for the same period of time.

§ 18. *Revocation or suspension of license.* (1) The Board may upon its own motion, and shall upon the verified complaint in writing of any person, if the complaint together with evidence presented therewith makes out a prima facie case, investigate the actions of any licensee or person acting as such, and may suspend a license or revoke and deny the right to obtain a license for a period not exceeding five years when the licensee has in this state or elsewhere:

(a) Obtained the license by fraud or false representation, or

(b) Made any substantial misrepresentation, or false promise of a character likely to influence, persuade or induce through agents, advertising or otherwise, or

(c) Accepted compensation for services as an auction assistant from any person except his employer, or

(d) Represented or attempted to represent an auctioneer other than his employer, without the express consent of his employer, or

(e) Failed, within a reasonable time, to account for or remit any money coming into his possesion which belongs to others, or

(f) Paid compensation to any person for acts or services performed in violation of this Act, or

(g) Been guilty of fraudulent or dishonest conduct, or

(h) Been convicted of a crime an essential element of which is dishonesty or fraud, or

(i) Committed or aided in the commission of any act in violation of this Act.

(2) Acts committed by officers of a corporation or members of a partnership or association shall be treated as acts of the corporation, partnership or association. Revocation of the license of a corporation, partnership or association shall not prohibit members who have not done acts which would be a cause for revocation of a license from obtaining a new license immediately.

§ 19. *Hearing to be had; notice.* (1) No license shall be suspended or revoked without a hearing by the Board. If an application for a license is denied, a hearing shall be held on written application of the applicant. Hearings may be held at such places in the state as the Board designates.

(2) The Board shall give the applicant or licensee twenty days' written notice, containing an exact statement of the charges made or the reasons for denial of a license, and the time and place of hearing. Notice may be served personally or by registered mail to the last known address.

§ 20. *Witnesses; evidence.* (1) The secretary or any member of the Board may administer oaths, issue subpoenas to any place in the state, and authorize the taking of depositions.

(2) The Board shall, on the request of any party, issue subpoenas for the attendance of witnesses in his behalf.

(3) Any circuit court, or judge thereof in vacation, having jurisdiction of the person, may compel obedience to

subpoenas or require the giving of testimony by proceedings for contempt.

(4) Fees for witnesses and service of subpoenas shall be the same as in civil actions in circuit courts, and paid in advance by the party in whose behalf the witnesses are summoned.

§ 21. *Conduct of hearings.* (1) The Board may receive evidence, and the testimony shall be taken down by a reporter.

(2) The proceedings shall be summary, in accordance with the rules of the Board. The parties shall not be bound by rules of legal evidence.

(3) The parties are entitled to be heard in person and by counsel.

(4) If an applicant or licensee does not appear, the hearing may proceed in his absence, but on motion or application of a party the Board may grant a continuance for cause.

(5) The Board shall keep a record of proceedings in the hearing, including the pleadings, evidence received, written findings of fact and conclusions of law, orders and other matters pertinent to the issue.

§ 22. *Orders.* The Board shall make an order within twenty days of the close of the hearing. Immediately upon the entry of the order the Board shall serve a copy on the applicant or licensee by personal delivery or by registered mail to his last known address. The order shall not take effect until personally delivered or until the expiration of five days after mailing.

§ 23. *Appeal; how taken.* Any person having an interest in the order may, within twenty days after service of the order, appeal to the Franklin Circuit Court by filing a verified petition, stating grounds on which review is sought, with the clerk of the court, who shall issue summonses

against the Board and adverse parties. The case shall be docketed and practiced as a case in equity but shall be advanced for hearing over other equity cases.

§ 24. *Transcript.* Within ten days after written request by any party the Board shall furnish him at cost a certified transcript of the record or any part requested. No part of the record except an agreed abstract shall be considered on appeal unless a certified transcript thereof is filed with the clerk at least ten days before trial.

§ 25. *Powers of court; order may be stayed.* The court may sustain, modify or reverse the order, or remand the case to the Board for proceedings in conformity with the direction of the court. The court or judge in vacation may suspend the operation of the order pending appeal on such terms as it deems just.

§ 26. *New evidence.* No evidence, except as to fraud affecting the order, shall be received on appeal unless the court is satisfied that the evidence could not have been procured for use at the hearing by reasonable diligence and will materially affect the merits, in which case the court may hear the evidence or remand the case to the Board with directions to hear the evidence and enter a new order.

§ 27. *Grounds for reversal or modification.* The court may reverse or modify the order only if:

(1) The Board acted without or in excess of its power, or

(2) The order was procured by fraud, or

(3) The findings of fact are not supported by any substantial evidence.

§ 28. *Appeals to Court of Appeals.* Appeals may be taken to the Court of Appeals as in other civil cases. The appeal may on motion be advanced over civil cases.

§ 29. *License necessary to obtain compensation.* No person shall recover in any action for the collection of com-

pensation for services performed as a commission, auctioneer or auction assistant without alleging and proving that he was licensed at the time the services were performed.

§ 30. *Contracts and compensation.* In any action for the collection of compensation for services performed as an auctioneer, auction assistant or commission, or involving the terms of a contract to render such services, proof that the person claiming compensation for the services or attempting to enforce the contract was duly licensed under this Act at the time the services were performed is prima facie evidence that the compensation is reasonable and that there was a contract to pay the same.

§ 31. *Publication of lists of licensees.* The Board shall publish at least once a year, a list of the names and addresses of all licensees and of all persons whose licenses have been suspended or revoked within one year, together with such other information relative to the enforcement of this Act as it deems of interest to the public. One list shall be mailed to each county court clerk and held by him as a public record. Lists shall also be mailed to any person in the state upon request.

§ 32. *Power of cities to tax.* This Act does not limit the the power of cities authorized by other laws to tax, license or regulate commissions, auctioneers and auction assistants. The requirements of this Act are in addition to the requirements of any ordinance of such cities taxing, licensing or regulating commissions, auctioneers or auction assistants. In case of conflicting regulations compliance with this Act is sufficient.

§ 33. *Penalties.* (1) Any person acting as a commission, auctioneer or auction assistant without having obtained a license shall for the first offense be fined in a sum equal to four times the amount of the fee for the license he should have obtained, and shall forfeit to the Board all compensation received for acting as a commission, auctioneer or

auction assistant. For the second offense he shall be fined in a sum equal to five times the amount of the license fee, and forfeit all compensation as in case of the first offense.

(2) For any other violation of this Act the penalty shall be a fine of not less than ten nor more than one hundred dollars for the first offense, and not less than twenty-five dollars nor more than two hundred dollars for the second offense.

(3) The commission of any act referred to in paragraphs (a) to (f) of subsection (1) of section 18 is a violation of this Act.

§ 34. Section 4618-120 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) The division of professional regulation, headed by a secretary, under the supervision of the Commissioner of Business Regulation, shall supervise the licensing of all architects, accountants, *auction marketing commissions, auctioneers, auction assistants,* barbers and beauticians, chiropractors, dentists, embalmers, trained nurses, pharmacists and veterinary examiners. The Board of Examiners and Registration of Architects, the Board of Accountancy, *the Kentucky Auction Marketing Board,* the Board of Barber and Beautician Examiners, the Board of Chiropractic Examiners, the State Board of Dental Examiners, the State Board of Embalmers of Kentucky, the State Board of Examiners of Trained Nurses, the Kentucky Board of Pharmacy, and the State Board of Veterinary Examiners, shall continue as separate agencies, financed as provided by law; but shall clear all matters of administration, except the examination of applicants for licenses, through the division of professional regulation in a manner approved by the Commissioner of Business Regulation.

(2) The office of the secretary of the division of professional regulation shall be financed by assessments on the *funds of the Boards* named herein on an equitable basis approved by the Commissioner of Finance.

(3) In the event any appointments to boards authorized by law, whether named in this section or not, are made from lists submitted to the Governor, *he* may reject any such list and require submission of other lists.

§ 35. (1) All moneys collected by the Kentucky Auction Marketing Board shall be paid into the State Treasury and credited to a revolving fund which is hereby appropriated to the Board for ordinary recurring expenses of operation for the fiscal years beginning July 1, 1940 and July 1, 1941.

(2) Upon application of the Board, the Department of Finance shall direct the Treasurer to advance out of the General Expenditure Fund not exceeding five hundred dollars to the Board to defray initial expenses. As soon as the Department of Finance determines that there are sufficient funds in the revolving fund created in subsection (1) of this section, the General Expenditure Fund shall be reimbursed out of the revolving fund for the amount so advanced.

By Mr. McConnell.

H. B. 73. An Act amending Section 777 Kentucky Statutes, Baldwin's 1936 Edition, relating to the reporting of accidents to the Railroad Commission.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 777 of Baldwin's 1936 Edition of Kentucky Statutes be and the same is hereby repealed, and re-enacted so as re-enacted said law shall read as follows:

Notice of every derailment, collision or other accident which may occur, resulting in injury or loss of life to any person shall be given within Twenty-four (24) Hours thereafter, by the company operating the road on which the ac-

cident occurred, to the Railroad Commission, Frankfort, Kentucky, and such company shall furnish the Commission all information requested by this Commission concerning the cause of the accident, and the Commission shall have the authority to investigate all such accidents and to take any action necessary to develop the facts and make its report. Such report to be made public in such manner as the Commission deems proper.

By same.

H. B. 74. An Act to amend Sections 835, 836 and 839 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 835 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

When any company authorized to construct a railroad, *or the Department of Highways in seeking to obtain a right of way for a State Primary road,* is unable to contract with the owner for any land or material necessary for the railroad *or highway,* it may file in the office of the county court clerk a detailed description of the land and material, and apply to the county court to appoint commissioners to assess the damages to which the owner is entitled. The court shall then appoint three impartial housekeepers residing and owning land in the county. They shall take oath to discharge faithfully and impartially their duties under this law.

§ 2. Section 836 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The commissioners shall view the land and material, and award to the owner the value of the land or material

taken, which shall be stated separately. They shall also award the damages, if any, resulting to the adjacent lands of the owner, considering the purposes for which it is taken, and shall deduct from the incidental damages the value, if any, of the advantages and benefits that will accrue to such adjacent lands from the construction and operation of the railroad *or highway* proposed to be constructed. They shall return a report, in writing, to the office of the county court clerk, stating their award, describing the land and material condemned, and giving the names of the owners, and whether nonresidents of the state, infants, of unsound mind, or married women.

§ 3. Section 839 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) When exceptions are filed, the court shall immediately have a jury impaneled to try the issues of fact made by the exceptions. Each juror shall receive one dollar per day for his services, to be taxed as costs. Upon request of either party, the court shall send the jury, with the sheriff, to view the land or material. In assessing the damages, the jury shall be governed by the rule prescribed in section 836. If sufficient cause is not shown for setting aside the verdict, the court shall render judgment according to it, and upon payment of the damages assessed shall make proper orders for the conveyance of title. Either party may appeal to the circuit court within thirty days, by executing bond as required in other cases, and the appeal shall be tried de novo. When the report of the commissioners has been confirmed by the county court or the damages assessed by that court, and the owners paid the amount due and all costs adjudged to them, the railroad company *or the Department of Highways* may take possession of the land or material and make the same use thereof for its purposes as if title had been conveyed to it. But when an appeal has been taken from the judgment of the county court by the railroad company *or the De-*

partment of Highways, it shall not take possession of the land or material condemned until it has paid into court the damages assessed and all costs. All money paid into court under sections 835 to 840 shall be held by the clerk.

(2) Where all conflicting claimants to the land condemned are before the county court in the condemnation proceedings, the condemnor, after the damages have been assessed in the county court, may by motion have the case transferred to the circuit court of the same county in order to have the rights of the claimants determined. Upon filing the order of transfer in the office of the circuit court clerk, the condemnor may pay to the master commissioner the damages assessed, to be held for and paid over to such claimants as the circuit court or the Court of Appeals may determine are entitled to the damages, and upon making such payment to the master commissioner the condemnor may take possession of the land or material in the same way as if payment had been made directly to the owners. Cases transferred to the circuit court shall be docketed and tried in the same manner as are civil actions originating in the circuit court. No such transfer shall affect the right of either party to appeal to the circuit court and thence to the Court of Appeals.

By Mr. Bolling.

H. B. 75. An Act to amend and re-enact Section 35 of Article V of Chapter 65 of the Acts of the Commonwealth of Kentucky for the year 1934, being Section 4399-40 Kentucky Statutes, Baldwin's 1936 Edition, relating to the levy and collection of taxes and the budget for school districts.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 35, Article V, Chapter 65 of the

Acts of the General Assembly for 1934, being Section 4399-40 Kentucky Statutes, Baldwin's 1936 Edition, be and it is hereby amended and reenacted by striking out the following language:

"Provided that no school district may request a tax levy in excess of the maximum levy now authorized for its particular type of district at the time of the passage of this act."

So that said section when so amended and reenacted shall read as follows:

All school taxes shall be levied by the fiscal court of each county except in independent school districts embracing cities of the first, second, third and fourth classes, when the boundary lines of independent districts in such cities are coterminous with the municipal limits of such cities. In such independent districts, the tax shall be levied and collected by the governing body of the city except as hereinafter provided. All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax levying authority as herein provided. It shall be the duty of the clerk of each county and the clerk of each city to certify to the school district or districts which the county or city may embrace as the case may be, the total assessed valuation of property in the school district as determined by its tax assessor subject to taxation under the provisions of this act.

It shall be the duty of each board of education to prepare a school budget, showing the amounts of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year and also the estimated total amount which will be received from the common school fund and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount, which, in no event, shall be less than twenty-five cents (25c) nor more than one dollar and fifty cents ($1.50) annually on each one

hundred dollars ($100.00) of property subject to local taxation. A copy of said budget shall be filed with the clerk of the tax levying authority of the district, as herein provided on or before March 20, and it shall be the duty of said tax levying authority to make its annual school levy during the month of April unless the tax levying authority of a school district is required by law to make all of its levy, including the school levy, at a different time of the year. It shall be the duty of such clerk to present the budget to the proper tax levying authority when said authority convenes to make its school levy. At the same time a copy of the budget is filed with the clerk, a copy shall be filed with the State Board of Education for its approval. It shall be the duty of such tax levying authority to levy the rate specified by the district board of education and approved by the State Board of Education along with such poll tax as the district board of education may request, provided that the poll tax shall not exceed two dollars ($2) on each male inhabitant within the district over twenty-one years of age; provided further, there shall be no poll tax levied in an independent district embracing a city of the first class; and provided further that the failure of a board of education or a tax levying authority by inadvertence or otherwise to furnish such budget or make the levy within the date prescribed shall not invalidate any levy made thereafter; and provided further that the tax levying authority for an independent district embracing a city of the first class shall determine, within the tax limits set out herein, the rate of the levy which shall be made for school purposes in such district.

It shall also be the duty of each board of education, if so required by the State Board of Education, to prepare and submit to it not later than fifteen days after the state per capita has been officially declared a close estimate or working budget which shall conform to such rules and regulations as may be prescribed by the State Board of Education. The

close estimate or working budget shall be consistent in its major divisions with the general budget previously prepared.

The money collected by taxation under the provisions of this act and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the tax levying authority as herein provided. One-half of the money raised by the levy under this act shall be used for supplementing teachers' salaries, provided this amount is necessary to pay all teachers the minimum salary provided herein, and after such minimum has been reached the money raised by such levies may be used as provided in the properly adopted budget; but the amount necessary, as well as the levy necessary, for supplementing teachers' salaries and for other purposes herein set forth, must be itemized in the budget submitted by the board of education to the proper tax levying authority at the time the request for the levy is made.

The tax provided for herein shall be levied and collected in the same manner and at the same time as other local taxes are levied and collected, except as stipulated herein; provided that not more than one per cent (1%) of the school tax so collected may be paid to the tax collector as a fee for collecting same; and provided further that nothing in this act shall be construed to mean that any allowance shall be made for the collection of school taxes to any collecting officer who may continue to collect such taxes which was not allowed him prior to the passage of this act. It shall be the duty of the tax collector to pay on or before the tenth day of each month to the depository of the district board of education the amount of school tax collected up to and including the last day of the preceding month, and the amount so paid together with the classes of property from which it was received shall be reported in writing to the treasurer of the board, and the report shall be accompanied by a duplicate of the receipt given to the tax collector by the

depository for such moneys, and it shall be the duty of the tax collector to make final settlement with the district board of education at the same time he makes final settlement with the local taxing authority to which he is responsible. Blanks for such purposes shall be furnished by the State Board of Education.

The laws applying to penalties on and the collection of delinquent school taxes shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of the taxing districts which embrace the various school districts. The school tax provided for in this section is exclusive of any tax which may be levied for sinking fund purposes."

§ 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. J. Lee Moore.

H. B. 76. AN ACT construing certain provisions in deeds and wills; defining powers of grantees, legatees and devisees therein; repealing conflicting laws and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. If any property of any kind or character be given by deed or will to any person for life with power or right to use or consume "all" of same, or "all if necessary" for the purposes designated therein, same shall be construed as giving the life tenant the right to consume all of said estate if in his discretion same is necessary to carry out the provisions for which the power set forth in the instrument was given and he shall have the sole discretion in determining if same is necessary.

§ 2. All laws or parts of laws in conflict herewith are hereby repealed.

§ 3. Whereas numerous life tenants and persons, firms and corporations acting in various ficiduary capacities are unable to determine their rights and duties under deeds and wills containing such provisions without procuring judgment of the court construing same, which entails considerable unnecessary expense to parties and estates, and

Whereas a number of instruments containing such provisions are now before the courts for construction and it is necessary that the above mentioned provisions be defined in order that said instruments now before the courts be so construed, and

Whereas, it is necessary that such instruments be construed immediately to protect the rights of the life tenant, an emergency is declared to exist and this Act shall become effective immediately after its passage and approval by the Governor.

By Mr. Walters.

H. B. 77. An Act to amend Section 772a-5 Carroll's Kentucky Statutes 1936 Edition by omitting from the fifteenth line thereof the word "or" and substituting in lieu thereof the word "and" and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 772-a-5, Carroll's Kentucky Statutes, 1936 Edition, be amended by omitting from the fifteenth line thereof, the word "or" and substituting in lieu thereof the word "and" so that said Act when amended and hereby re-enacted, will read as follows, to-wit:

"PASSENGER SERVICE MAY BE DISCONTINUED BY RAILROAD: PROCEEDINGS—Upon the application

of any carrier by railroad and after such notice to the public and such hearings as the Commission may by order prescribe, the Railroad Commission of Kentucky shall have the power, and it shall be its duty, to authorize common carriers by railroad to discontinue passenger service by railroad or branch thereof in this State, whenever in the opinion of said railroad Commission any passenger service by railroad has been and is being carried on at a loss and there is no reasonable probability that such condition will in the future change for the better, and whenever any passenger service by railroad has for any reason become unecessary in the public interest."

WHEREAS, there are a number of proposals to discontinue passenger service where the public interest and welfare are involved and it is necessary to correct the above statute before acting upon said proposals, an emergency is declared to exist and this Act is to become effective upon its passage and approval.

By Mr. Fitzpatrick.

H. B. 78. An Act to repeal, amend and re-enact Section 2554B-177 Kentucky Statutes, Carroll's 1936 Edition, and being part of Chapter 2, page 148, Section 75 of the Acts of the General Assembly, so that when said section is amended and re-enacted it will read as follows:

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

No license for the sale of alcoholic beverages at retail shall be granted for any premises which shall be located on the same street or avenue as and within One Hundred and Fifty (150) feet of a building occupied exclusively as a school, hospital, church or other place of worship unless there is

first obtained by the party applying for said license, the written consent of the governing authority of such church, school, or hospital, except that a hotel, drug store or private club which has been in good faith actually in business as licensee at that location for not less than One (1) year next preceeding the passage of this Act or the establishment of said church, school or hospital may be granted a license by the administrator in the exercise of his sound discretion, even though within less than One Hundred and Fifty (150) feet of a building occupied exclusively as a school, hospital, church, or other place of worship. The measurement called for in this Section shall be taken on the street or avenue on which the licensed premises are to be located in a straight line from the nearest part of the building in which alcoholic beverages are sold, or to be sold to the nearest part of the building used for such school, hospital, church or other place of worship.

Section 2554B-177 Kentucky Statutes, Carroll's 1936 Edition and all other laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Hammons.

H. B. 79. An Act relating to juries and amending sections 2241 and 2261 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2241 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

2241. (1) At the first regular term of circuit court in each county, and annually thereafter, the circuit judge shall appoint *one jury commissioner from each magisterial district of the county.* But in counties where the circuit court is

divided into two divisions the judge of each division requiring the services of a jury shall appoint two jury commissioners for his division, and in counties where the circuit court is divided into more than two divisions the judge of each division requiring the services of a jury shall appoint one jury commissioner for his division.

(2) A jury commissioner must be an intelligent and discreet housekeeper, over twenty-one years of age, having no action in court requiring the intervention of a jury, and must be faithfully sworn in open court to faithfully discharge his duty.

(3) The commissioners shall hold their meetings in some room designated by the judge. While engaged in making lists of juries and selecting the names, writing and depositing or drawing names from the drum or wheel case, no person shall be permitted in the room with them, except that in counties containing a city of the first class the commissioners may select a clerk to aid them in the performance of their duty. The clerk shall be sworn in open court to faithfully discharge his duties and shall be in attendance on the commissioners in session. The fiscal court of counties having a clerk may allow the clerk a salary not exceeding one hundred dollars a year.

(4) The jury commissioners shall from the last returned assessor's book for the county carefully select names of intelligent, sober, discreet and impartial citizens, over twenty-one years of age and who are resident housekeepers of the county, in the following number:

(a) In counties having a population of ten thousand or less, not less than one hundred and twenty-five nor more than one hundred and fifty;

(b) In counties having a population of more than ten thousand and not exceeding twenty thousand, not less than one hundred and fifty, nor more than three hundred;

(c) In counties having a population exceeding twenty thousand and not exceeding fifty thousand, not less than five hundred nor more than six hundred;

(d) In counties having a population exceeding fifty thousand and not exceeding one hundred thousand, one thousand; and

(e) In counties having a population exceeding one hundred thousand and its circuit court divided into branches, two thousand for each division of the court requiring the services of a jury.

(5) In counties having circuit courts of continuous session, wherein part of the sessions are held in a city of the second class not the county seat of the county, not less than one hundred and twenty-five nor more than one hundred and fifty of the names selected for the county shall be placed in the drum or wheel case at the county seat. The remainder of the names shall be placed in a separate drum or wheel case at the city of the second class.

(6) The number of persons selected for jury service from each magisterial district shall bear the same ratio to the total number selected for jury service in the county as the number of registered voters in the district bears to the total number of registered voters in the county, as evidenced by the registration books in the county court clerk's office.

(7) The commissioners shall write the name, and in counties having cities of the first, second or third class the address, of each person selected, in plain handwriting on a small slip of paper, each slip being as near the same size and appearance as practicable. Each slip shall be enclosed in a small case made of paper or other material and deposited, unsealed, in a revolving drum or wheel case. Upon depositing the slips in the drum or wheel case, the commissioners shall carefully examine its contents and remove and destroy any slips found therein. When the slips have been deposited in the drum or wheel case, it shall be locked and revolved, or so

shaken as to thoroughly mix the slips; then it shall be unlocked and a sufficient number of names to procure twenty-four persons qualified to act as grand jurors shall be with drawn. If, in doing this the name of any person not qualified to act as grand juror is drawn, it shall be returned to the drum or wheel case. The names shall be drawn one by one, and only the names of those qualified shall be recorded on paper until twenty-four are secured. The list of names recorded shall be certified, signed and enclosed by the commissioners in an envelope made of good paper, which shall be sealed, and their names written across the seal, and directed to the judge of the circuit court, adding the words, "criminal division," if the circuit court is divided into branches, and endorsed, "A list of the grand jury for the ———— circuit court to be held in the month of ———— in the year ————," adding the words, "criminal division" after the words, "circuit court," if there are branches of the circuit court. The next grand jury for the county shall be impaneled from this list.

(8) After completing the list of grand jurors, the commissioners shall lock the drum or wheel case and revolve or shake it so as to thoroughly mix the slips remaining therein, and then unlock the same and draw therefrom, one by one, the names of not less than thirty nor more than thirty-six persons, as the judge of the court directs, and record the names upon paper as drawn. The list of names recorded shall be certified, signed and enclosed by the commissioners in an envelope made of good paper, which shall be sealed, and their names written across the seal, and directed to the judge of the circuit court, adding the name of the division of said court for which said list of jurors is selected if the court is divided into branches, and enclosed: "A list of the petit jury for the ———— year ————," adding the name of the division court for which said jury is selected if the circuit court is divided into branches. The next petit jury for the

court or division thereof shall be selected and impaneled from this list.

(9) The slips of paper upon which are written the names of persons placed by said commissioners upon the lists of grand and petit jurors shall be destroyed by the commissioners as soon as the names are recorded on the list. Circuit court having more than *one* division shall have a separate drum or wheel case for each division, which the commissioners shall use in making up the juries and selecting jurors for their respective divisions, but *the commissioners of the various divisions shall see that no person's name is selected for more than one divisoin during the same period.* No grand jury shall be made for any division of a circuit court having branches less than the criminal division.

(10) When the commissioners have completed the list of jurors they shall lock the drum or wheel case containing the remaining names and deliver it and the key thereto, the sealed list or lists, and all slip cases not used, to the judge of the circuit court for which the jurors are selected, who shall deliver them, except the key, to the circuit court clerk in open court and at the time administer to him and his deputies the following oath, to-wit: "You do solemnly swear that you will not open this drum or wheel case, except in open court, under the direction of the judge of this court, and that you will not open the envelopes containing the lists of petit (or grand and petit jurors, as the case may be), for the session of this court to be held in the month of———— in the year of ————, until the time fixed by law; that you will not, directly or indirectly, converse with anyone selected as a petit juror concerning any suit for trial in this court, at its next term, unless by leave of court." If the clerk subsequently, in vacation, appoints a deputy he shall administer to him a like oath. If the clerk or any other person, except as herein provided, shall open, unlock or break into, or willfully injure the wheel, drum, or lock, or, shall willfully

open or break the seal of the envelope, containing the jury list or lists, the person so offending shall be guilty of felony, and punished by confinement in the penitentiary for not less than one or more than five years.

§ 2. Section 2261 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

2261. The court may discharge any jury panel after it has served one week, and impanel another jury.

By Mr. Vance.

KENTUCKY SOIL CONSERVATION DISTRICTS LAW

H. B. 80. AN ACT to declare the necessity of creating governmental subdivision of the State, to be known as "soil conservation districts," to engage in conserving soil resources and preventing and controlling soil erosion; to establish the State soil conservation committee, and to define its powers and duties; to provide for the creation of soil conservation districts; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers, including the power to acquire property by purchase, gift, and otherwise; to empower such districts to adopt programs and regulations for the discontinuance of land-use practices contributing to soil wastage and soil erosion, and the adoption and carrying out of soil-conserving land-use practices, and to provide for the enforcement of such programs and regulations; to provide for establishing boards of adjustment in connection with land-use regulations, and to define their functions and powers; to provide for the discontinuance of soil conservation districts; and for other purposes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. SHORT TITLE.—This act may be known and cited as the soil conservation districts law.

§ 2. LEGISLATIVE DETERMINATIONS, AND DECLARATION OF POLICY.—It is hereby declared, as a matter of legislative determination—

A. The condition.—That the farm and grazing lands of the Commonwealth of Kentucky are among the basic assets of the Commonwealth of Kentucky, and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this Commonwealth by wind and water; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

B. The consequences.—That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills;

deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall runoff, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming, and grazing.

C. The appropriate corrective methods.—That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from

cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. Declaration of policy.—It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this Commonwealth, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this Commonwealth.

§ 3. DEFINITIONS.—Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

(1) "District" or "soil conservation district" means a governmental subdivision of this Commonwealth, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Committee" or "State soil conservation committee" means the agency created in section 4 of this act.

(4) "Petition" means a petition filed under the provisions of subsection A of section 5 of this act for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of section 6 of this act to nominate candidates for the office of supervisor of a soil conservation district.

(6) "State" means the Commonwealth of Kentucky.

(7) "Agency of this State" includes the government

of this Commonwealth and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this Commonwealth.

(8) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this State, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land owner" or "owner of land" includes any person, firm or corporation who shall hold legal or equitable title to any lands lying within a district organized under the provisions of this act.

(11) "Land occupier" or "occupier of land" includes any person, firm, or corporation other than the owner who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as lessee, renter, tenant, or otherwise.

(12) "Due notice" means notice published at least twice, with an interval of at least 6 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

§ 4. STATE SOIL CONSERVATION COMMITTEE

A. There is hereby established, to serve as an agency of the State and to perform the functions conferred upon it in this act, the State soil conservation committee. The committee shall consist of a chairman and four additional members. The following shall serve, ex officio, as members of the committee: The State Commissioner of Agriculture, The State Commissioner of Conservation, the State Director of Extension, the State Director of Vocational Education, or the designated representatives of the above mentioned officials, and a representative farmer appointed by the Governor for a term of four years. The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the above-mentioned members as an advisory member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

B. The State soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the State for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the seat of the State government, and shall be furnished with the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State

institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the Committee may request.

C. The committee shall designate its chairman, and may, from time to time, change such designation. A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements of funds.

D. In addition to the duties and powers hereinafter conferred upon the State soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized

hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this Commonwealth, in work of such districts.

(5) To disseminate information throughout the Commonwealth concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

§ 5. CREATION OF SOIL CONSERVATION DISTRICTS.

A. Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district, and within such counties as maintain a full time county agricultural extension agent, may file a petition with the State soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district;

(2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

(4) A request that the State soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of

the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State soil conservation committee may consolidate all or any such petitions.

B. Within thirty (30) days after such a petition has been filed with the State soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All owners and occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the committee shall give due weight

and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in section 2 of this act. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After 6 months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum

within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county (ies) of ....., ..., and ....." and "Against creation of a soil conservation district of the lands below described and lying in the county (ies) of ....., and ....." shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All owners of lands lying within the boundaries of the territory, as determined by the State soil conservation committee, shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote.

D. The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If

the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the owners and occupiers of lands lying within the defined boundaries, the number of land owners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land owners and occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in section 2 of this act; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the secre-

tary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals); (1) that a petition for the creation of the district was filed with the State soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this Commonwealth to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referrendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the opera-

tion of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this Commonwealth or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this Commonwealth, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this Commonwealth and a public body corporate and politic. The Secretary of state shall make and issue to the said supervisors a certificate, under the seal of the Commonwealth, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

G. After six (6) months shall have expired from the date of entry of a determination by the State soil conservation

committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act.

H. Petitions for including additional territory within an existing district may be filed with the State soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land owners in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the land owners of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all owners of land lying within the proposed additional area shall be eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

§ 6. ELECTION OF THREE SUPERVISORS FOR EACH DISTRICT.—Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the State soil conservation committee to nominate candidates for supervisors of such district. The committee shall have authority to extend the time within

which nominating petitions may be filed. No such nominating petition shall be accepted by the committee, unless it shall be subscribed by twenty-five (25) or more owners of lands lying within the boundaries of such district. Land owners may sign more than one such nominating petition to nominate more than one candidate for supervisor. The committee shall give due notice of an election to be held for the election of three supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in the square before any three names to indicate the voter's preference. All owners of lands lying within the district shall be eligible to vote in such election. Only such land owners shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The committee shall pay all the expenses of such elction, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

§ 7. APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS.—The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided hereinabove. The two supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder.

The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for

terms of 1 and 2 years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring supervisors shall, respectively, have been selected. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

The supervisors may employ such employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the State for such legal services as they may require or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the State soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements of funds. Any supervisor may be removed by the State soil conservation committee upon notice and hearing, for neglect of duty or malfeance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to desigate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

§ 8. POWERS OF DISTRICTS AND SUPERVISORS.—A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this Commonwealth or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this Commonwealth or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled.

(3) To carry out preventive and control measures within

the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of section 2 of this act, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owners and occupier of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any owner or occupier of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act;

(6) To make available, on such terms as it shall prescribe, to land owners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land owners and occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of owners and occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judically noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land owners and occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

§ 9. ADOPTION OF LAND-USE REGULATIONS

Whenever the supervisors of any district determine that uncontrolled soil erosion on some lands within the district is causing damage to other lands within the district, they shall have authority to propose regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the owners and occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the

contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance no. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance no. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All owners of lands within the district shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least two-thirds of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by two-thirds of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations, proposed after the supervisors have determined that uncontrolled soil erosion on some lands within the district is causing damage to other lands within the district, and prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of the district, shall have the force and effect of law in the said district.

Any owner of land within such district may at any time file a petition with the supervisors asking that any or all of

the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;

3. Specifications of cropping programs and tillage practices to be observed;

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such

factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all owners and occupiers of lands lying within the district.

§ 10. ENFORCEMENT OF LAND USE REGULATIONS

The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 9 of this act are being observed. The supervisors are further authorized to provide by ordinance that any land owner or occupier who shall sustain damages from any violation of such regulations by any other land owner or occupier may recover damages at law from such other land owner or occupier for such violation.

§ 11. PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS

Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 9 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court for the county within which the lands of the defendant may lie a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land owner or occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is

interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the defendant. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of 5 per centum per annum, from the defendant. In all cases where the person in possession of lands, who shall fail to perform such work, operations, or avoidances shall not be the owner, the owner of such lands shall be joined as party defendant.

The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon

the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of 5 per centum per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

§ 12. BOARD OF ADJUSTMENT.

A. Where the supervisors of any district organized under the provisions of this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 9 hereof, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of 1, 2, and 3 years, respectively. The members of each such board of adjustment shall be appointed by the State soil conservation committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of *five* dollars ($5.00) per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The supervisors shall

pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

B. The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act and with the provisions of any ordinance adopted pursuant to this section. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

C. Any land owner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the State soil conservation committee. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State soil conservation committee shall have the right to appear and be heard at such hearing. Any owner or occupier of lands lying within the

district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing, the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

D. Any petitioner aggrieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district, or any intervening party, may obtain a review of such order in the circuit court for the county within which the lands of the petitioner may lie, by filing in such court a petition praying that the order of the board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the board and thereupon the party seeking review shall file in the court a transcript of the entire record in the proceedings, certified by the board, including the documents and testimony upon which the order complained of was entered, and the findings, determination, and order of the board. Upon such filing, the court shall cause notice thereof to be served upon the parties and shall have jurisdiction of the proceedings and of the questions determined

or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by evidence, shall be conclusive. If any party shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings, taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by evidence, shall be conclusive, and shall file with the court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the court.

§ 13. COOPERATION BETWEEN DISTRICTS.—The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

§ 14. STATE AGENCIES TO COOPERATE.—Agencies of this Commonwealth which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the Commonwealth, which shall have

jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to section 9 of this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

§ 15. DISCONTINUANCE OF DISTRICTS.—At any time after five (5) years after the organization of a district under the provisions of this act, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the State soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the commmittee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the soil conservation district to be here inserted)" shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All owners of lands lying within the boundaries of

the district shall be eligible to vote in such referendum. Only such land owners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the owners and occupiers of lands lying within the district, the number of land owners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land owners and occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 2 of this act; provided, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the State soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the State treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the State soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dis-

solution shall not affect the lien of any judgment entered under the provisions of section 11 of this act, nor the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in five (5) years.

§ 16. SEPARABILITY CLAUSE.—If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 17. INCONSISTENCY WITH OTHER ACTS.—Insofar as any of the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

By Mr. Anderson.

H. B. 81. AN ACT relating to duly licensed and practicing attorneys at law, in counties containing cities of the first or second class, and providing for compensation for said attorneys for legal services performed and rendered by them in representing paupers charged with the commission of a felony, when said attorneys are ordered by the judge of the Circuit Court to so do; and providing that the amount of said compensation shall be determined and fixed by the judge of the Circuit Court to so do; and providing that the amount of said compensation shall be determined and fixed by the judge of the Circuit Court of said counties containing first or second class cities; and providing that the

amount of said compensation shall be based upon the nature of the charge and the time and expense consumed and incurred in preparing and trying the case; and providing that in no event shall the compensation be less than ten ($10.00) dollars nor more than Two hundred ($200.00) dollars; and further providing that all awards so made shall constitute valid claims against the county containing said cities of the first or second class wherein the indictment is returned; and providing for appeals to the Court of Appeals for said awards; and repealing all acts or parts of acts, and all laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That any duly licensed attorney at law practicing in counties of this Commonwealth containing cities of the first or second class who shall upon the order of any judge of its Circuit Court in said counties be required to and does in fact render and perform legal services in representing a pauper charged with the commission of a felony, within such counties containing cities of the first or second class, shall be entitled to compensation therefor, according to the value of the services rendered or performed by him. The amount of said compensation shall be determined and fixed by the presiding judge of the Circuit Court that appointed said attorney to so do, consideration being given to the nature of the charge, and the amount of time and expense consumed and incurred in the preparation and trial of the case. Provided, however, that in no event shall the amount be less than ten ($10.00) Dollars nor more than two hundred ($200.00) dollars.

Any and all amounts awarded by said judge shall be certified by the clerk of said court to the fiscal court of the county wherein said indictment was returned and said

amount shall constitute a valid claim against said county and shall be paid from the funds of said county.

Whenever any fiscal court or any such attorney shall be aggrieved by the awards so made, such aggrieved party may, within three days from the finding and entry thereof, object thereto and thereupon either or both parties may introduce evidence either orally or by deposition, for the purpose of establishing the excessiveness or inadequacy of said award. Any objection on the part of a fiscal court of a said county containing a city of the first or second class shall be by the county attorney who shall represent the fiscal court at said hearing. The ruling of said circuit court upon objection to the award shall be final for the purpose of appeal and the aggrieved party may thereupon prosecute an appeal to the Court of Appeals; in all such appeals the appellee shall be the judge of the circuit court who made or refused to make said award.

If any provision of the Act is declared invalid, it shall not affect the other provisions hereof.

All Acts or parts of Acts, and all laws or parts of laws, in conflict herewith are hereby repealed.

By same.

H. B. 82. AN ACT amending, repealing and re-enacting Sections 125a-1, 125a-2, 125a-3, 125a-4, 125b-1, 125b-2, 125b-3, and 125b-4, Kentucky Statutes, Carroll's 1936 Edition; being an act to create and fixing the salary of a third assistant Commonwealth's Attorney in counties of this Commonwealth having a population of Two hundred thousand or over; and being an act to create and fixing the salary of a fourth district detective to the Commonwealth's Attorney in counties of this commonwealth having a population of One hundred and fifty thousand or over.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 125a-1, 125a-2, 125a-3, 125a-4, 125b-1, 125b-2, 125b-3, and 125b-4, Kentucky Statutes, Carroll's 1936 Edition, be amended, repealed and re-enacted so that said section when so amended, repealed and re-enacted shall read as follows:

125a-1. Assistants to Commonwealth's Attorney in Jefferson County.—That the offices of first assistant Commonwealth's attorney and second assistant Commonwealth's attorney and third assistant Commonwealth's attorney in counties having a population of two hundred thousand or over are hereby created.

125a-2. Appointment, removal, salary.—Said first assistant Commonwealth's attorney and said second assistant Commonwealth's attorney and said third assistant Commonwealth's attorney shall be appointed by the Commonwealth's attorney for a term of four years, but they shall be subject to removal at any time by the Commonwealth's attorney. The salary of the first assistant Commonwealth's attorney shall be four thousand dollars per annum, and the salary of the second assistant Commonwealth's attorney shall be four thousand dollars per annum, and the salary of the third assistant Commonwealth's attorney shall be four thousand dollars per annum; payable out of the county levy in equal monthly installments.

125a-3. Qualifications, powers, duties.—Each of the assistant Commonwealth's attorneys provided for by this act shall be a citizen of Kentucky and shall at the time of appointment reside in this district in which the commonwealth's attorney is elected and shall be a licensed practicing lawyer. Said assistant Commonwealth's attorney shall have the same powers and perform the same duties that Commonwealth's attorney now have and perform, subject to the directions and control of the Commonwealth's attorney.

They shall aid, the Commonwealth's attorney in all matters pertaining to his office, and in such manner as he may from time to time designate.

125a-4. Absence of the senior officer.—In the absence of the Commonwealth's attorney, the first assistant Commonwealth's attorney shall act as Commonwealth's attorney without additional compensation; and in the absence of both the Commonwealth's attorney and the first assistant Commonwealth's attorney, the second assistant Commonwealth's attorney shall act as Commonwealth's attorney without additional compensation.

125b-1. District Detectives; appointment; salary.—That in all Counties of this Commonwealth having a population of One Hundred and Fifty Thousand (150,000) or over, there is hereby created the office of District Detectives to the Commonwealth's Attorney; said District Detectives shall be four in number and shall be appointed by the Commonwealth's Attorney for a term of four (4) years, but may be removed at any time by said Commonwealth's Attorney. And said district detectives shall be paid a salary not to exceed twenty-four hundred dollars ($2,400.00) annually for each detective.

125b-2. Duties of.—It shall be the duty of said district detectives to assist the Commonwealth's attorney in the preparation of all criminal cases pending in the circuit court of said county, by investigating the evidence and facts connected with such cases, and they shall aid the Commonwealth's attorney in all matters pertaining to his office and in such manner as he may from time to time designate.

125b-3. Arrests may be made and process executed by.—Said district detectives shall have the same powers of arrest and the same right to execute process as is now given by law to the sheriffs in this Commonwealth.

125b-4. Salary; when and how paid.—The salary of each of said district detectives shall be twenty-four hundred dollars per annum, payable out of the county levy in equal monthly installments.

By Mr. Bronston.

H. B. 83. AN ACT relating to Public Health repealing Section 2060 and Sections 2060a-1 through 19 inclusive, of the Kentucky Statutes (State Food and Drug Law); and to enact a new law for the protection of the public health and public safety and for the prevention of fraud which shall be in uniform in principle with the Federal Food, Drug and Cosmetic Act of 1938 and with the Federal Trade Commission Act, to the extent to which it outlaws the false advertising of food, drugs, devices and cosmetics; to define certain terms; to provide for the regulation and prevention of the manufacture for sale, the offering for sale, and the sale of adulterated foods, drugs and cosmetics, or misbranded foods, drugs, cosmetics and devices; to provide for the labeling of foods, drugs, devices, and cosmetics; to provide for the regulation of the sale of and the keeping of records of sale of certain dangerously potent substances; to provide for regulation and sale of new drugs; to define adulteration and misbranding of foods, adulteration and misbranding of drugs or devices, and adulteration and misbranding of cosmetics; to define prohibited acts under this Act; to prohibit false advertising of foods, drugs, devices and cosmetics, and to define false advertising of such products; to provide for exemptions; to authorize the State Board of Health to make inspections and secure samples; to provide for examination or analysis of samples and investigations and to fix reasonable fees for such examination or analysis; to provide for operation of laboratories; to provide for assistance to and from health officers and their instruction; to provide for the embargoing of foods, drugs, devices and cosmetics found in violation of the Act; to provide for publication of reports of the State Board of Health; to require a certificate and fee of registration for foods, drugs, devices and cosmetics; to require an annual permit and fee to engage in the manufacture of foods, drugs, devices, or cosmetics for sale within

the State; to provide for the revocation or suspension of such permits; to provide for expenditure of fees so collected; to provide for the making of regulations by the State Board of Health pertaining to foods, drugs, cosmetics and devices; to authorize the court to issue temporary and permanent injunctions for violations of any of the provisions of this Act and to provide penalties for violation of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. This Act may be cited as the Kentucky Food, Drug and Cosmetic Act.

§ 2. For the purpose of this Act—

(a) The term "Board" means State Board of Health of Kentucky.

(b) The term "person" includes individual, partnership, corporation, and association.

(c) The term "food" means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories, but shall include insecticides, fungicides and rodenticides.

(e) The term "device," except when used in paragraph (k) of this section and in section 3(j), 11(f) and 15(c) and 18(c), means instruments, apparatus and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap, intended for cleansing purposes only.

(g) The term "official compendium" means the official United States Pharmocopoeia, official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(h) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article, and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

(k) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to

be false becuase it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

(l) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.

(m) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

(n) The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under said conditions.

(o) The term "contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(p) The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such articles in the conduct of any food, drug or cosmetic establishment.

(q) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.)

§ 3. The following acts and the causing thereof within the State of Kentucky are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of sections 12, 16 or 24.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 21.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing

in the State of Kentucky from whom he received in good faith the food, drug, device, or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of Section 6.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.

(j) Forging, counterfeiting, simulating, or falsely representing or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this Act.

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 16, or that such drug complied with the provisions of such section.

(l) The dissemination or distribution of advertising in the form of samples of drugs except to the medical, dental, veterinary or pharmaceutical professions.

§ 4. In addition to the remedies hereinafter provided the Board is hereby authorized to apply to any circuit court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 3; irrespective of whether or not there exists an adequate remedy at law.

§ 5. (a) Any person who violates any of the provisions of section 3 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days, or a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00), or both such imprisonment and fine; but if the

violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of section 5 (a) for having violated section 3 (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the State of Kentucky from whom he received in good faith, the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act, designating this Act.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the Board to furnish the Board the name and post office address of the manufacturer, packer, distributor, seller or advertising agency, residing in the State of Kentucky who cause him to disseminate such advertisement.

§ 6. (a) Whenever a duly authorized agent of the Board finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this Act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of

such detained or embargoed article by sale or otherwise without such permission.

(b) When an article detained or embargoed under subsection (2) has been found by such agent to be adulterated, or misbranded, he shall petition the judge of the police, county, or circuit court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent; and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; *Provided,* That when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Board. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Board or its agent that the article is no longer in violation of this Act, and that the expenses of such supervision have been paid.

(d) Whenever the Board or its authorized agent shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the

same being hereby declared to be a nuisance, the Board, or its authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

§ 7. It shall be the duty of each Commonwealth attorney, county attorney, or city attorney to whom the Board or the health officer of any county, town, or city, reports any violation of this Act, to cause appropriate preceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this Act is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Board or its designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

§ 8. Nothing in this Act shall be construed as requiring the Board to report for the institution of proceedings under this Act, minor violations of this Act, whenever the Board believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

§ 9. Whenever in the judgment of the Board such action will promote honesty and fair dealing in the interest of consumers, the Board shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standards of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as prac-

ticable to the definitions and standards promulgated under authority conferred by Section 401 of the Federal Act.

§ 10. A food shall be deemed to be adulterated—

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 13; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse or upon uncooked garbage; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, harmless natural gum,

and pectin; *Provided,* that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(d) If it bears or contains a coal-tar color other than one from a batch which has been certified by the United States Department of Agriculture.

§ 11. A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If it is offered for sale under the name of another food.

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word, imitation, and, immediately thereafter, the name of the food imitated.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided,* That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board.

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 9, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) If it purports to be or is represented as—(1) A food for which a standard of quality has been prescribed by regulations as provided by section 9 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (2) a food for which a standard or standards or fill of container have been prescribed by regulation as provided by section 9, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such a standard.

(i) If it is not subject to the provisions of paragraph (g) of this section, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each: *Provided,* That, to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board determines to be, and by regulations prescribed as,

necessary in order to fully inform purchasers as to its value for such uses.

(k) If it bears or contains any artifical flavoring, artificial coloring or chemical preservative, unless it bears labeling stating the fact: *Provided,* that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Board.

§ 12. (a) After thirty (30) days from the effective date of this Act it shall be unlawful to sell any food, drug, device, or cosmetic, unless the manufacturer, processor, or packer thereof, or his agent residing in the State of Kentucky, holds an unexpired permit for such sale issued by the Board. Each sale without such permit shall constitute a separate offense. Such permit may cover any number of such articles, but a separate permit shall be required for each establishment in which any such article is manufactured, processed, or packed: *Provided,* That establishments packing farm produce, sold as such; restaurants and other eating places preparing food exclusively for service therein; retail pharmacies compounding and dispensing drugs; establishments operating under the Meat Inspection Act approved March 7, 1907, as amended (U. S. C. 1934 ed., Title 21 secs. 71–91; 34 Stat. 1260 et seq.) and the Federal Virus Serum and Toxin Act of July 1, 1902 (U. S. C. 1934 ed., Title 42, Chap. 4), shall be exempt from this provision: *Provided further,* That this provision shall not apply to articles manufactured or packed in an establishment for which an application for a permit has been made prior to thirty days after the effective date of this Act, in accordance with the provisions of subsection (b), while such application is pending and unacted upon by the Board.

(b) The Board, upon receipt of applications for such permits, on such forms as may be prescribed by regulations, accompanied by a fee of Twenty-five Dollars ($25.00) for

each permit applied for, shall issue such permits to the applicants. Permits shall not be transferable. All permits shall expire on December 31 of each year. The issuance of a permit shall not relieve the person to whom it was issued, or the articles manufactured or packed in the establishment covered by such permit, from compliance with the other provisions of this Act.

(c) The Board shall have authority to revoke or suspend any permit for violation by the holder thereof of any provision of this Act or of the health laws of the State of Kentucky. Written notice of revocaton or suspension shall be given by the Board to such holder by registered mail or personal delivery, and shall specify the reasons for revocation or suspension and the date on which revocation or suspension becomes effective. If such violation involves danger to health, such notice shall specify that the revocation or suspension becomes effective immediately on delivery of such notice. If such violation does not involve danger to health, revocation or suspension shall not become effective until ten (10) days after the date such notice is delivered, or until such later time as the Board may specify in such notice. The Board shall afford such holder an opportunity for hearing on such revocation or suspension, under rules and regulations prescribed by the Board, to be held within ten (10) days following the date of such notice. Such holder shall be privileged at any time to apply for the reinstatement of such permit, and if the Board after investigation finds that the holder has taken adequate measures to correct the conditions responsible for such violation, and to maintain such correction, the Board shall reinstate such permit.

§ 13. Any poisonous or deleterious substance added to any food except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 10 (a); but when

such substance is so required or cannot be so avoided, the Board shall promulgate regulations limiting the quantity therein or thereon to such extent as the Board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 10 (a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) section 10 (a). In determining the quantity of such added substance to be tolerated in or on different articles of food, the Board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

§ 14. A drug or device shall be deemed to be adulterated—

(a) (1) If it consists in whole or in part of any filthy, putrid or decomposed substance; or (2) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health, or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurous to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified by the United States Department of Agriculture.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determina-

tion as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed by the Board. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity, from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoepathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia. Whenever a drug is recognized in both the National Formulary and the Homoeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the National Formulary unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the National Formulary.

(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor.

§ 15. A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided,* That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance, alpha eucaine, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, whch derivative has been by the Board after investigation, found to be, and by regulations under this Act, designated as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, aminopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis,

digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided,* That to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Board.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: *Provided,* That where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Board shall promulgate regulations exempting such drug or device from such requirements.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: *Provided,* That the method of packing may be modified with the consent of the Board. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia. Whenever a drug is recognized in both the National Formulary and the Homoeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the National Formulary with respect to packaging and labeling unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic

Pharmacopoeia of the United States and not to those of the National Formulary.

(h) If it has been found by the Board to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Board shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the Board shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) If it is a drug sold at retail, and contains any quantity of aminopyrine, barbital, the salts of barbituric acid, cinchophen, dinitrophenol, sulfapyridine, or sulfanilamide; unless it is sold or dispensed by a registered pharmacist on a written prescription signed by a member of the medical, dental or veterinary profession who is licensed by law to administer such drug, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession and such prescription is not refillable: *Provided,* That for the purpose of enforcement of this section the registered pharmacist shall keep a record of the amount purchased of the drugs as named in this paragraph and a dispensing record showing the date, name and quantity of the drugs dispensed, the name and address of the patient, and the name of the physician, dentist or veterinarian sign-

ing the prescription. Provided further, no physician, dentist or veterinarian shall dispense any such drug as named in this paragraph without affixing to the container in which the drug is sold or dispensed a label bearing the name and address of the dispenser, the date dispensed, the name and address of the patient and the directions for use of the drug by the patient.

(l) A drug sold on a written prescription signed by a member of the medical, dental or veterinary profession (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this section if—

(1) such member of the medical, dental or veterinary profession is licensed by law to administer such drug, and

(2) such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession.

§ 16. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has become effective under Section 505 of the Federal Act, or (2) when not subject to the Federal Act unless such drug has been tested and has been found to be safe for use under the conditions prescribed, recommended or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the Board an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use; (b) a full list of the articles used as components of such drug; (c) a full statement of the composition of such drug; (d) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the Board may require, and (f) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subsection (a) (2) shall become effective on the 60th day after the filing thereof, except that if the Board finds after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, the Board shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) This section shall not apply—

(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs provided the drug is plainly labeled "For investigational use only"; or

(2) to a drug sold in this State at any time prior to the enactment of this Act or introduced into interestate commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the virus, serum, and toxin Act of July 1, 1902 (U.S.C. 1934 ed., title 42, Chap. 4).

(d) An order refusing to permit an application under this section to become effective may be revoked by the Board.

§ 17. A cosmetic shall be deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual: *Provided,* That this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do

so may cause blindness'', and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term ''hair dye'' shall not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified by the United States Department of Agriculture.

§ 18. A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided,* That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the Board.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

'(d) If its container is so made, formed, or filled as to be misleading.

§ 19. (a) An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.

(b) For the purpose of this Act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholocystitis, diabetes, diptheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis, (Infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal dsease, shall also be deemed to be false; except that no advertisement not in violation of subsection (a) shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, pharmacy or veterinary professions, or appears only in the scientific periodicals of those professions, or is disseminated only for the purpose of public-health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: *Provided,* That whenever the Board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the Board shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the Board may deem necessary in the interests of public health: *Provided,* That this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

§ 20. (a) The authority to promulgate regulations for the efficient enforcement of this Act is hereby vested in the

Board. The Board is hereby authorized to make the regulations promulgated under this Act conform, in so far as practicable with those promulgated under the Federal Act.

(b) Hearings authorized or required by this Act shall be conducted by the Board or such officer, agent, or employee as the Board may designate for the purpose.

(c) Before promulgating any regulation contemplated by section 9; 11 (i) (j); 15 (b), (f), (g) and (h), 18 (b), or 19 (b) the Board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the Board (which date shall not be prior to ninety days after its promulgation.) Such regulation may be amended or repealed in the same manner as is provided for its adoption; except that in the case of a regulation amending or repealing any such regulation the Board, to such an extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.

§ 21. The Board or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices or cosmetics in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this Act are being violated, and

(2) to secure samples of specimens of any food, drug, device or cosmetic after paying or offering to pay for such sample. It shall be the duty of the Board to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this Act is being violated: *Provided,* That when

requested at the time of securing samples, the authorized agent of the Board shall prepare a duplicate official sample of the food, drug, device or cosmetic for the owner.

§ 22. (a) The Board may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Act, including the nature of the charge and the disposition thereof.

(b) The Board may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the Board deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the Board from collecting, reporting, and illustrating the results of the investigations of the Board.

§ 23. No article of food, drug, device, or cosmetic intended for shipment from the state of Kentucky to another State or to a foreign country shall be deemed to be adulterated or misbranded under this Act, if such article is not in conflict with the laws of the United States and is labeled on the outside of the shipping package with the words "For Interstate Shipment" or "For Export", as the case may be; but if such article is sold for use or consumption within the State of Kentucky, then this section shall not exempt such article from the operation of any of the provisions of this Act.

§ 24. (a) After thirty (30) days from the effective date of this Act, it shall be unlawful to sell any food, drug, device, or cosmetic, unless the manufacturer, processor, or packer thereof, or his agent residing in the State of Kentucky, holds an unexpired certificate of registration covering such article issued by the Board: *Provided,* That farm produce sold as such, food prepared in restaurants and other eating places exclusively for service therein, drugs compounded in retail pharmacies for sale therein or dispensed on written prescription of members of the medical, dental or veterinary profession, meat and meat products subject to the Meat In-

spection Act approved March 7, 1907, as amended (U.S.C. 1934 ed. title 21, secs. 71–91; 34 stat. 1260 et seq.), and products subject to the Virus, Serum and Toxin Act of July 1, 1902 (U.S.C. 1934 ed., title 42 chap. 4), and articles included in the official United States Pharmacopoeia and the official Homoeopathic Pharmacopoeia and official National Formulary or any supplement to any of these when sold under the name of the article as is recognized in the official compendium, shall be exempt from this provision: *Provided further,* That this provision shall not apply to articles for which an application for a certificate of registration has been made prior to thirty days after the effective date of this Act in accordance with the provisions of subsection (b), while such application is pending and unacted upon by the Board.

(b) The Board upon receipt of applications for certificate of registration accompanied by a fee of One Dollar ($1.00) for each article covered by such application and by complete labeling and formula for each such article, or, in case of a device, complete labeling and a specimen or working drawing thereof, shall issue such certificates to the applicants. *Provided:* That the registration fees from any one manufacturer, packer or proprietor shall not exceed One Hundred ($100.00) Dollars annually, regardless of the number of articles registered. All certificates shall expire on December 31 of each year. The issuance of such certificate shall not relieve the article covered thereby from compliance with the other provisions of this Act.

(c) The Board shall refuse the issuance of a certificate of registration for any article which, in the judgment of the Board, is injurious or detrimental to the consumer, or in violation of this Act. Temporary certificates of registration may be issued by the Board for any article pending investigation of such article, when in the judgment of the Board the welfare of consumers will not be endangered thereby.

(d) All fees collected under the provisions of this section, section 12 and section 28 shall be put into the State Treasury and shall be kept as a separate fund and used for paying the expenses of the administration and enforcement of this Act, and shall be accounted for as required by law for other funds and expenses of the Board.

(e) Food, drugs, devices, and cosmetics, subject to registration under subsection (a) but which have not been so registered, and the vessels in which they are contained, are contraband and shall be subject to embargo or detained by the procedure provided by section 15. Any article so embargoed or detained and found by the court to be in violation of subsection (a) but not otherwise in violation of this Act, shall be sold, and the proceeds of sale shall be put into the State Treasury for use as prescribed by subsection (d).

§ 25. The Board may provide for the analysis or examination of any sample of food, drug, cosmetic or device taken or submitted in accordance with the provisions of this Act, and for procuring samples of food, drugs, cosmetics or devices, and for making inspections into the condition and wholesomeness and purity of the food, drugs, cosmetics and devices produced, prepared, manufactured, stored, or kept or offered for sale; for studying the problems connected with the production, preparation and sale of foods, drugs, cosmetics or devices, investigations for standards, expert witnesses attending the grand juries and courts, clerk hire, and all other expenses necessary for carrying out the provisions of this act, including salary of the experts employed in the work.

§ 26. That the experiment station of the University of Kentucky, in its chemical, bacteriological or research laboratories that are, or may be, established, shall make such analytical, chemical or bacteriological examinations of samples of foods, drugs, cosmetics, devices, or their labels as herein provided, drinking waters, ice, sewage, specimens of fluids,

discharges or excretions from the body of humans or other animals suspected of being diseased to determine the presence of typhoid fever, meningitis, tuberculosis, veneral diseases, pneumonia, diphtheria and such other diseases as may be named by the Board; the brains of animals for examinations for rabies, that may be submitted to said station by the Board in the discharge of said Board's duties, and shall conduct promptly and efficiently this and such other laboratory work for the Board as the laws of the commonwealth require of said Board. In the presence of an outbreak, or impending outbreak, of cholera, yellow fever, plague, cerebrospinal meningitis, infantile paralysis or other pestilences, said laboratory shall equip and conduct such an emergency laboratory at any place as may be needed or demanded by the Board for the prompt location, diagnosis and suppression of such pestilence, the cost of which laboratory to be paid out of the "contingent fund" provided for the use of said Board for such purposes.

§ 27. The University of Kentucky shall employ a director of the laboratories for the work of the Board, whose qualifications shall include technical and scientific training and experience in public health work, and if at any time the Board finds that such director is incompetent, neglectful or unsuited for the work, upon the written request of said Board, the University of Kentucky shall forthwith employ another director to be chosen as herein provided. The University may appoint such assistants as may be necessary for the conduct of the work of the laboratories. The compensation of said director and assistants shall be paid in the same manner as instructors in the University of Kentucky. The director of said laboratory or laboratories, at the direction of the State Board of Health, shall keep and furnish such a supply of shipping and mailing containers and other laboratory equipments and supplies as may be necessary to execute the work of the Board.

§ 28. The said Board may fix reasonable fees for the examination of samples of foods, drugs, cosmetics, devices, or labels for the same, submitted by manufacturers or dealers, for the purpose of determining as to whether any such products or labels comply with the provisions of this law, and reasonable fees for the examination of labels and inquiry into other matters connected with the enforcement of this act, and which may be requested by the said Board. And whenever a sample has been found to be adulterated or misbranded, the said Board shall collect a fee, not to exceed fifteen dollars ($15.00), to cover the costs of investigation or analysis, to be taxed as costs and paid by the magistrate, police judge or clerk of any court in which prosecution is brought, and is in favor of the Commonwealth, to the auditor of public accounts or by the Board, at civil suit, and all such fees, so collected, shall be paid to the auditor of public accounts and set aside as a fund for the further enforcement of this act.

§ 29. The said Board shall analyze or cause to be analyzed samples submitted by county and city officers, provided such samples are submitted in accordance with the terms of the said act; and the Board shall have the right to require county and city health officers or their agents to make inspections and to collect and send samples for examination, and to call upon all other county and city officials for assistance in carrying this act into effect. As means for further carrying out the provisions of this act, the experts employed under the provisions of this act shall give instructions, free of cost, to any county or city health officer or employee of any county or city health department, who may request the same, in matters pertaining to the inspection and practical remedies for insanitary conditions in the preparation, storage and sale of foods, drugs, devices and cosmetics, examination of samples, and similar matters; and such courses of instruction may be conducted in connection with other courses of instruction at the laboratory

of the Board or state university or state normal schools, or at the annual school for health officers, as provided by law.

§ 30. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Act and applicability thereof to other persons and circumstances shall not be affected thereby.

§ 31. This act shall take effect on January 1, 1941. The Kentucky Statute, Section 2060 and Sections 2060a-1 through 19, shall remain in force until such effective date and are hereby repealed, effective upon such date: *Provided,* That the provisions of section 20 shall become effective July 1, 1940, and thereafter the Board is authorized hereby to (1) conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this Act as the Board shall direct, and (2) designate prior to the effective date of this Act, foods having common or usual names and exempt such foods from the requirements of clause (2) of section 11 (i) for a reasonable time to permit the formulation, promulgaton, and effective application of definitions and standards of identity therefor as provided by section 9. All other statutes in conflict with this act are hereby repealed, effective upon such date.

By Mr. Chapman.

H. B. 84. An Act to repeal and re-enact Section 126 of the Criminal code of Practice, Baldwin's Revision of 1932, relating to the manner of charging an offense in an indictment.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 126 of the Criminal Code of Practice, Bald-

win's Revision of 1932, be repealed and re-enacted, and as re-enacted shall be as follows:

Section 126. INDICTMENT TO CHARGE BUT ONE OFFENSE; DEFECTS, VARIANCES AND AMENDMENT.

§ 1. An indictment, except in the cases mentioned in Section 127, must charge, but one offense, but if it may have been committed in different modes and by different means the indictment may allege the modes, means or results in the disjunctive or alternative.

§ 2. No indictment for an offense created or defined by statute shall be invalid or insufficient merely for the reason that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense.

§ 3. An indictment need not allege that the offense was committed or the act done "feloniously" or "traitorously" or "unlawfully", or "with force and arms," or "with a strong hand," nor need it use any phrase of like kind otherwise to characterize the offense; nor need it allege that the offense was committed or the act done "burglariously," "wilfully," "knowingly," "maliciously," or "negligently," nor need it otherwise characterize the manner of the commission of the offense, unless such characterization is necessary to charge the offense under section 122.

§ 4. No indictment shall be held invalid because the accusatory portion charges a common law offense and the descriptive portion describes a statutory offense, or the converse if the offenses are of the same nature or are commonly known by substantially the same name.

§ 5. The court may at any time cause the indictment to be amended in respect of any defect, imperfection or omission in the matter of form only.

By same.

H. B. 85. An Act to repeal and re-enact Section 122 of the Criminal Code of Practice, Baldwin's revision of 1932, relating to the requisites and correction of an indictment.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 122 of the Criminal Code of Practice, Baldwin's Revision of 1932, be and the same is hereby repealed and re-enacted so that as re-enacted the same shall be as follows:

Section 122. REQUISITES OF AN INDICTMENT. The indictment must contain—

1. TITLE OF PROSECUTION, NAME OF COURT AND PARTIES. The title of the prosecution, specifying the name of the court in which the indictment is presented and the names of the parties. Whenever an objection is made that an indictment does not contain a caption or title or commencement, a caption may be prefixed to, and a commencement may be inserted in the indictment; and any defect, error or omission in the title, caption or commencement may be amended by the court at any stage of the proceedings and shall be in any event cured by a verdict.

2. STATEMENT OF ACTS CONSTITUTING OFFENSE. A statement of the acts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended; and with such degree of certainty as to enable the court to pronounce judgment, on conviction according to the right of the case.

3. CHARGING THE OFFENSE.

(a) The indictment may charge, and is valid and suf-

ficient if it charges, the offense for which the defendant is being prosecuted in one or more of the following ways:

(1) By using the name given to the offense by the common law or by a statute.

(2) By stating so much of the definition of the offense either in terms of the common law or of the statute defining the offense or in terms of substantially the same meaning, as is sufficient to give the court and the defendant notice of what offense is intended to be charged.

(b) The indictment may refer to a section or subsection of any statute creating the offense charged therein, and in determining the validity or sufficiency of such indictment regard shall be had to such reference.

By Mr. Milam.

H. Res. 8. RESOLUTION authorizing Zill Whitney to file suit against the Commonwealth of Kentucky, and the State Highway Commission, and the Department of Highways, or either.

Said resolution is as follows, viz.:

WHEREAS, it is reported to the General Assembly that on 28th August 1937 on the State Highway No. 81 between Dunmore and Lewisburg, in Muhlenberg County a Road Grader and Truck owned by the Commonwealth of Kentucky and at the time being used and operated on said State Highway by the employees of the State Highway Commission in maintaining said Highway approached from the rear, overtook and ran into wagon driven by Zill Whitney knocking him therefrom and severely injuring him through the alleged carelessness and negligence of the employees of the Kentucky State Highway Commission.

NOW, in order that said Zill Whitney may have his "day in court" to determine by judicial action the question of negligence, if any, causing said injuries aforesaid.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

Zill Whitney, or in the event of his death before or during the prosecution of this action to its final conclusion his executor or administrator, be and he is hereby empowered, and authorized to file and prosecute appropriate actions, against the Commonwealth of Kentucky and the State Highway Commission, and the Department of Highways, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, and the Department of Highways, or either, for such injury, if any there be; and in the event any judgment in the action is recovered by said Zill Whitney or same be compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the General Fund. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Said action may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be $5,000.00. The statute of limitations shall not begin to run in favor of Commonwealth of Kentucky until this act becomes effective.

By Mr. Sparks.

H. Res. 9. Resolution appropriating and authorizing the payment to Joe Holcomb of the city of Jenkins, Letcher county, Kentucky the sum of six hundred fifty-four dollars and forty-four cents for indemnity for cattle destroyed by order of the State Live Stock Sanitary Board.

Said resolution is as follows, viz.:

WHEREAS, Joe Holcomb of the city of Jenkins, Letcher County, Kentucky, was the owner of certain cattle during the fiscal year ending June 30, 1939, which cattle were destroyed by order of the State Live Stock Sanitary Board during said fiscal year, under the provisions of section 63c-7 of Carroll's Kentucky Statutes, 1936 edition, and

WHEREAS, the State Live Stock Sanitary Board awarded indemnity to the said Joe Holcomb to be paid by the Commonwealth in the sum of six hundred fifty-four dollars and forty-four cents, and

WHEREAS, the said Joe Holcomb has not been paid the sum awarded to him as indemnity because the sums appropriated by the General Assembly for that purpose during that fiscal year were insufficient and sums appropriated for subsequent fiscal years could not lawfully be expended for that purpose, and

WHEREAS, the said Joe Holcomb has been forced to borrow money to replace the cattle so destroyed and the lender is demanding payment,

Now, therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That there is approprated out of the General Fund of the Commonwealth the sum of six hundred fifty-four dollars and forty-four cents for the purpose of paying the indemnity due to Joe Holcomb, of the city of Jenkins, Letcher County, Kentucky, and the Department of Finance is directed to draw a warrant on the Treasurer, payable to the said Joe Holcomb, for that purpose.

By Mr. Hammons.

H. Res. 10. Resolution authorizing James V. Chaney to sue the Commonwealth of Kentucky and the State Highway Commission or either.

Said resolution is as follows, viz.:

WHEREAS, on the 17th day of August, 1938, a dump truck owned by State of Kentucky or its State Rural Highway Department being carelessly and negligently driven, operated and controlled by an employee of said Highway Department was backed off a new highway then under construction and down a bank, in Whitley County, Kentucky, and struck James V. Chaney who was standing about ten (10) feet away from said highway, knocking him down and under said truck, thereby allowing the truck to run into or over his body, and said James V. Chaney was thereby seriously injured and sustained broken and dislocated bones and divers injuries.

WHEREAS, James V. Chaney has sustained serious and permanent injuries by reason of alleged carelessness and negligence of an employee of the State Highway Department in the conduct of the busness of the State of Kentucky.

NOW, in order that James V. Chaney may have his day in court to determine by judicial action the question of negligence, if any, of the employee of the State Highway Commission of the State of Kentucky causing said injuries aforesaid:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That James V. Chaney in his own right and name be and is hereby empowered and authorized to file and prosecute an appropriate action against the Commonwealth of Kentucky and the State Highway Commission of Kentucky or either, for such injuries, if any there be, and in the event any judgment is recovered by James V. Chaney, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any

judgment which may be entered therein as in any other civil suit and the liability claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil suit.

§ 3. Said action may be brought and prosecuted in Whitley County, or any county in Kentucky, having jurisdiction of the parties and subject matter. The limit of liability as to James V. Chaney shall be six thousand ($6,000.00) dollars.

Ordered that said bills and resolutions be printed and referred.

Mr. Ward of the Special Committee on Rules, heretofore appointed by the Speaker for the sole purpose of drafting rules to govern the House of Representatives during this regular session of the General Assembly, 1940, offered the following report:

The Special Committee on Rules report the attached Rules with the expression of opinion that the same should be adopted.

Henry Ward, Chairman
John M. Hunnicutt
J. Lee Moore
Roy O. Shehan
G. Sam Milam

Said rules are as follows, viz.:

RULES OF HOUSE, 1940

Quorum of House

Rule 1. Five members of the House shall constitute a quorum for the purpose of adjourning; fifteen members for the purpose of calling a House, of sending for absent members and of making an order for their censure and fine;

a majority of the members may proceed to business, and the numbers mentioned in this rule shall have power in the absence of the Speaker, to elect a Speaker pro tem. for the purposes above designated.

HOURS OF MEETING AND ADJOURNMENT

Rule 2. The standing hour of meeting each day shall be 10 o'clock a.m., standard time, and the standing hour of adjournment shall be 3 o'clock p.m., except on Monday, when the hour of meeting shall be 1 o'clock p.m., and the hour of adjournment 3 o'clock p.m. Provided, however, that either the Speaker or a majority of the House may extend the sitting of any session at any time if the business of the House so requires; and provided, that when the roll is being called on any proposition and the hour of adjournment arrives, the time for adjournment shall be extended until said roll has been completed and the result announced. The hour of meeting and adjournment of the body shall be governed by the House clock over the main entrance.

ORDER OF BUSINESS

Rule 3. The order of business of each day shall be as follows:

(a) Invocation.

(b) Roll call.

(c) Reading of the Journal of preceding day and correction of any errors that may be found to exist therein.

(d) Petitions.

(e) Motions and resolutions, limited to one-half hour.

(f) Introduction of bills.

(g) Reports of special and standing committee in the order as contained in Rule No. 19.

(h) The Orders of the Day, which shall be called at not later than 12 o'clock noon each day except on Monday when the Orders of Day shall be called at not later than 2 o'clock.

Any business which remains unfinished upon the adjournment of the House or upon the call of the standing order of the day, shall be the first business in order each day when that section of the order of business is reached on the following convening day.

THE POWERS AND DUTIES OF THE SPEAKER

Rule 4. (a) The Speaker shall take the chair every day at the hour to which the House adjourned on the preceding day; he shall immediately call the members to order, and, a quorum being present, shall proceed with the order of business.

(b) He shall preserve decorum and order, and in case of disturbance or disorderly conduct in the gallery or lobbies, may cause the same to be cleared. In case of extreme disorder or confusion in the House, in the gallery, or in the lobbies such as renders it difficult or impossible to transact business in an orderly manner, the Speaker may declare a recess or an adjournment of the sitting.

(c) He shall have general control, except as provided by rule of law, of the hall of the House and of the corridors and passages, and of all rooms in that part of the Capitol assigned to the use of the House.

(d) He may speak to points of order in preference to other members, rising from the chair for that purpose.

(e) He shall decide questions of order subject to an appeal to the House on request of any two members, and the members appealing shall reduce the appeal to writing.

(f) The Speaker shall have supervision over all officers and employees of the House; and shall direct them as to their duties, and upon failure of any such official to perform said duties, the Speaker shall have power to order deductions from the pay of such offender, not to exceed the per diem of such official or employee for each offense. Such amount shall be entered upon the Journal and deducted from the compensation due such offender.

(g) The standing committees of the House, herein named, and all other committees, shall be appointed by the Speaker.

(h) If the Speaker be in doubt as to the result of a vote, and a division be called for, the House shall divide; those in the affirmative of the question shall rise from their seats and afterwards, those in the negative. If the Speaker be still in doubt, and a count be requested, the Speaker shall name two members, one from each side, who with the Clerk shall count those in the affirmative and the negative; which being reported, he shall rise and state the decision of the House; provided, however, that such decision or count shall not be allowed after the House shall have proceeded to other business.

(i) The Speaker shall have the right to name any member to perform the duties of the chair, but such Speaker pro tem. shall not be empowered to act beyond a period of five days.

(j) If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may through the Speaker, call the offender to order; and the member called to order shall immediately sit down unless permitted to explain, and should the member fail to comply with the order of the Speaker, then the Speaker shall direct the Sergeant-at-Arms to require such member to take his seat or direct the Sergeant-at-Arms to remove such member from the House for the remainder of the day.

(k) When two or more members arise at once, the Speaker shall name the member who is first to speak.

Duties of the Clerk

Rule 5. (a) The Clerk shall have charge and supervision of all the clerical business of the House. He shall perform the duties imposed on him by law and the rules of the House. He shall have charge of the Clerk's desk and

shall see that no one is permitted therein except himself and those assisting him.

(b) It shall be the Clerk's duty to read to the House all papers ordered to be read; to call the roll and note and report the absentees, when a call of the House is ordered; to call the roll and note the answers of members, when a question is taken by "yeas" and "nays"; to assist, under the direction of the Speaker, in taking the count when any vote of the House is taken; to notify committees of their appointment and the business referred to them; to superintend the execution of all printing ordered by the House and *to report to the Speaker,* to be submitted to the House, *every failure of the printer to execute the same properly and promptly.*

He shall attest all writs, warrants and subpoenas issued by order of the House and shall certify to the passage of all bills, and to the adoption of all resolutions by the House. In addition to his other duties, the Clerk shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House, and prepare and sign warrants or requisitions for the same.

The Clerk shall superintend the recording of the Journal of the proceedings, and engrossing and enrolling of bills, and shall cause to be kept and prepared for the printer the Daily Journal of the proceeding of the House.

(c) The Clerk shall have the custody of all records and papers of the House, and shall not allow them to be taken from the table or out of his possession without the leave of the House, unless to be delivered to the chairman of a committee to which they may have been referred, to the Senate, or to the Governor, and then he shall take a proper receipt therefor. He shall endorse on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files.

(d) Register of Bills. The Clerk shall keep a register of all bills introduced in the House or transmitted for con-

currence from the Senate in which shall be recorded, under appropriate heads, the progress of such bills from the date of their introduction to the time of their transmission, if House bills, to the Governor; or if Senate bills, their return to the Senate.

(e) Engrossing Bills. When engrossing a bill the Chief Clerk may incorporate amendments by means of handwriting or typing. When an amendment strikes out any part of the original, it shall be indicated in the engrossed copy by two parallel lines over the part to be striken out, in such a way as not to render illegible the original words. House amendments shall be indicated in red. The color shall be indicated by the writing itself in case of handwriting and by notations in the margin in case where typing is used. The signature of the Clerk in the margin shall accompany all amendments.

The Clerk shall not engross Senate bills but shall attach amendments adopted thereto and report the same with the bill to the Senate.

(f) Bills to be preserved. When the enrolled copy of a House bill or resolution, signed by the presiding officer of each house, is returned to the Chief Clerk, he shall immediately attest it and deliver it to the Governor or his secretary. The Clerk shall file together the original copy in the form when introduced and a copy in the form as finally passed in the permanent files of his office.

(g) Printed bills after the Session. When the Chief Clerk has finished his work at the Capitol after a Session of the General Assembly, he shall transmit to the State Librarian the unused printed copies of bills in his possession. Before transmittal, he shall upon the face of printed bills which passed and were not amended, stamp the following words—"Became a law". Upon the face of printed copies which passed with amendment he shall stamp the words—"Became a law with amendments". Upon other copies he shall stamp

the words—"Failed to pass". The State Librarian is directed to distribute these bills upon request of any interested person.

Duties of the Enrolling Clerk

Rule 6. The Enrolling Clerk of the House shall take charge of all House bills as soon as they are reported back to the House and ready to be enrolled. A register, by number and title, shall be kept in a suitable record book of all bills passed by both houses, attesting fact and date of passage. A printed copy upon safety paper, in the exact form as finally passed, shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. In cases of extreme emergency, where no correct printed copy is available, the enrolled copy may be in longhand. When signed by the Speaker of the House, the Enrolling Clerk shall deliver them at once to the Senate or such committees as may be authorized to receive them in that body.

Duties of the Sergeant-At-Arms

Rule 7. At least five minutes before the hour of convening each day the Sergeant-at-Arms shall clear the floor of the House Chamber of all persons not entitled to the floor, and shall announce in a loud and distinct voice, "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber". He shall then compel each and every person then in the House Chamber, who is not entitled to remain therein, to vacate.

He shall enforce the orders of the House and the Speaker in preserving order. If persons not entitled to be in the House shall come upon the floor it shall be his duty to remove them; and the Sergeant-at-Arms is empowered to deputize as many assistant Sergeants-at-Arms as he may deem necessary to carry out the orders of the Speaker. All fines levied under the rules of the House shall be collected by the Sergeant-at-Arms and covered into the State Treasury.

Duties of Other Officials

Rule 8. The duties of Doorkeepers, Cloakroom Keepers, Janitors and other officials or employees of the House shall be such as provided by law and as designated by the Speaker.

Bills and Resolutions

Rule 9. Members may file copies of bills or resolutions to be introduced at the Clerk's office, at any time. Copies filed shall be in triplicate, each copy signed by the member introducing same. One copy shall be for the permanent files of the Clerk, one copy for the printer and one for the use of the members of the press. Three hundred (300) copies of each bill shall be printed, but the Clerk may increase the number if in his discretion they are needed.

When introduction of bills is reached in the order of business, the Clerk shall report to the House the number, title and sponsor of each bill filed with him since his last report on introduction of bills. One printed copy of each bill shall be marked and identified by the Chief Clerk and each said marked and identified printed bill shall thereafter be the official bill, and each bill as originally introduced shall be filed by the Chief Clerk with each official printed bill.

Motions

Rule 10. *Order of Motions.* When a question is under debate, no motion shall be received but

(a) To fix the time to which the House shall adjourn.
(b) Adjourn.
(c) To lay on the table.
(d) For the previous question.
(e) To postpone to a day certain.
(f) To commit.
(g) To amend.
(h) To lay on the Clerk's desk.

Which several motions shall have precedence in the order in which they are arranged; and no motion to postpone to a day certain, or to commit being decided shall again be allowed on the same day and at the same stage of the bill or proposition.

Rule 11. *Motions.* (a) Motions in general which are not relevant to pending questions, bills or resolutions shall be made when the fifth order of business [Rule 3(e)] is reached each day.

(b) Motions relating to pending questions, bills and resolutions shall be made when such question, bill or resolution is brought up for consideration according to the rules of the House.

(c) After a motion is made and seconded, it shall be stated by the Speaker or being in writing, shall be handed to the Chair and read aloud by the Clerk before debate. Every motion shall be reduced to writing if the Speaker or any member so request.

(d) After a motion is stated by the Speaker or read by the Clerk, it shall be deemed in the possesion of the House, but may be withdrawn by the consent of the House at any time before decision or amendment.

(e) The Speaker may state questions sitting, but shall rise to put a question.

Questions shall be distinctly put in this form, viz.:

"Gentlemen, you who are of the opinion that (as the question may be) say 'Aye' you of the contrary say 'Nay'."

Rule 12. *Motion to Lay on Table.* The motion to lay on the table shall in all respects have the same effect in this House as in the House of Representatives of the Congress of the United States, except as otherwise provide in these rules.

Rule 13. *Motion to Lay on Clerk's Desk.* The motion to lay on the Clerk's desk in this House shall have the effect of laying aside the pending question temporarily and when

the pending question is laid upon the Clerk's desk it may be taken therefrom at the Will of the House, and considered as an original proposition.

Rule 14. *Motion to Adjourn.* A motion to adjourn shall always be in order except during roll call or pending a motion to fix the time to which the House shall adjourn, and shall be decided without debate.

Rule 15. *Undebatable Motions.* The following motions shall be propounded without debate, except as hereinafter in this rule provided:

(a) Motions to proceed or dispense with the Orders of the Day.

(b) Motion to suspend or dispense with any rule of the House.

(c) Motions to take up business out of its regular order.

(d) Motions to commit or recommit without instruction.

Provided, however, as follows:

First. Upon motion to lay on the table, the author of any measure shall have five minutes in which to explain the measure; and

Second. Provided further that no explanation of any vote shall be permitted during the call of the "ayes" and "nays" upon any undebatable motion.

Rule 16. *Motion to Reconsider.* A motion to reconsider any action of the House shall be in order if made in open session on the succeeding legislative day on which the House is in session; but such motion shall not be in order after action has been had by the House in consequence of the decision proposed to be reconsidered, or after it has been sent to the Senate or Governor.

If any bill, motion or resolution has been, by vote, carried or lost, and a motion is made to reconsider the vote by which the bill, motion or resolution was carried or lost, and said motion to reconsider is laid upon the table, then no further motion shall be entertained relative to the subject matter

carried by said bill, motion or resolution, unless by the unanimous consent of the House.

Rule 17. *The Previous Question.* The previous question being moved and seconded, the question from the chair shall be—"Shall the main question be now put?" A majority of the members elected to the House may order the previous question at any time. The effect of the previous question shall be to bring the House to a direct vote, first on all amendments pending at the time, and then upon the main question.

The ordering of the previous question shall put an end to all debate except as follows: Before the vote on an amendment, the proposer of the amendment shall have five minutes, and then the proposer of the measure sought to be amended shall have five minutes; and before the vote upon the main question, the opponents of the measure shall have ten minutes and then the proposer of the measure shall have ten minutes to close the debate. When a measure or an amendment has been proposed by a committee, then the time given to the proposer shall be at the disposal of the chairman of the committee.

AMENDMENTS

Rule 18. (a) More than one amendment to any part or section of any proposition or bill shall not be offered at the same time or entertained by the Speaker.

(b) Each amendment originally pending shall be disposed of before another may be entertained to the same or any other part or section of the main proposition or bill.

(c) All committee amendments shall be disposed of before any other amendment may be offered by a member or entertained by the Speaker. Provded, however, that whenever and wherever blanks are to be filled, the rule above shall yield to general parliamentary law, and provided further, that when a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amend-

ment by way of substitute, but said substitute shall not be voted on until the original matter is perfected.

(d) All committee substitutes shall be printed in like manner as bills and all other substitutes shall be disposed of at the will of the House.

(e) The Clerk shall furnish to members sheets with a proper heading printed in blank upon which amendments shall be written, and all amendments offered shall be on such blanks and bear the name of the member offering the same.

(f) No amendment shall be in order that is not germane to the matter under consideration; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment.

COMMITTEES

Rule 19. *Standing Committees.* The following shall be and constitute the standing committees of the House of Representatives, and each committee shall be composed of not less than five nor more than nine members, except the Veterans Legislation Committee, which shall be composed of all veterans who have served in the United States Army or Navy, and except the Committee on Rules, which shall consist of not less than eighteen nor more than twenty-seven members, besides the Speaker, who shall be Chairman:

Agriculture No. 1.
Agriculture No. 1A.
Alcoholic Liquor Control No. 1.
Alcoholic Liquor Control No. 1A.
Appropriations No. 1.
Appropriations No. 1A.
Banks and Banking.
Bond Issues.
Charities and Penal Institutions.
Circuit Courts.
Cities of the First Class.
Cities of the Second Class.

Cities of the Third Class.
Cities of the Fourth Class.
Cities of the Fifth and Sixth Classes.
Claims.
Classification of Cities and Towns.
Codes of Practice.
Compensation for Industrial Injuries.
Constitutional Amendments.
Corporate Institutions.
County and City Courts.
Court of Appeals.
Criminal Law.
Education No. 1.
Education No. 1A.
Enrollment.
Executive Affairs.
Federal Relations.
Fish and Game No. 1.
Fish and Game No. 1A.
Immigration and Labor.
Insurance, Fire and Marine.
Insurance, Life and Casualty
Interuban and City Railways.
Judiciary.
Judicial Council.
Juvenile Courts and Children's Homes.
Kentucky Statutes No. 1.
Kentucky Statutes No. 1A.
Library and Historical Records.
Military Affairs.
Mines and Mining.
Miscellaneous Affairs.
Motor Transportation.
Municipalties.
Oil and Minerals.
Printing.

Public Bridges and Ferries.
Public Ditches.
Public Health No. 1.
Public Health No. 1A.
Public Utilities.
Publicity and Tourist Attractions.
Railroads.
Redistricting Congressional.
Redistricting Judicial.
Redistricting Legislative.
Retrenchment and Reform.
Revenue and Taxation No. 1.
Revenue and Taxaton No. 1A.
Roads and Highways No. 1.
Roads and Highways No. 1A.
Rules.
Social Security.
State Affairs.
State Fair.
State and National Parks.
State Properties.
State University.
Suffrage and Elections.
Teachers' Colleges.
Trade and Commerce.
Veterans Legislation.
Ways and Means.

It shall not be competent for the House, by vote or otherwise, to add any one to the membership of either or any of said committees, but the Speaker shall have full power to fill vacancies and add members to either or any of said committees within the limitation as to numbers hereinabove provided.

Rule 20. *Committee of Whole House.* It shall be the standing order of the day throughout the session of the House

to resolve itself into a committee of the whole House on the State of the Commonwealth. Robert's Rules of Order (latest revised edition) shall govern the proceedings in committee of the Whole House, anything in these rules to the contrary notwithstanding.

Rule 21. All questions, whether in the Committee or in the House, shall be disposed of in the order in which they are moved.

Rule 22. *Duties of Committees.* (a) When a bill shall have been referred to any committee, it shall be the duty of the Chairman of such committee to submit the bill to the consideration of his committee and such committee shall make such amendments to said bill as it may deem proper and report said bill to the House with such amendments. A majority of the members of the committee shall be present before a bill may be considered. No bill shall be considered or a report of same determined upon, except when a committee is in session. A committee in reporting a bill to the House shall make its report in writing, and such a report shall be signed by a majority of such committee, but after said majority report has been made the minority may make its report, which shall also be in writing, and signed by the members of the committee making such report.

(b) If any Committee shall hold or refuse to report a bill or resolution for an unreasonable time, any member may make a motion to discharge the committee from further consideration of the bill and if a majority of all members elected to the House vote in favor of such a motion then the bill or resolution shall be considered in the same manner it would have been considered, if it had been reported by the committee without an expression of opinion.

The House shall, at all times, be the judge of what shall constitute an unreasonable length of time under this provision.

Rule 23. Whenever any committee shall report to the House a bill with the expression of opinion that it should

not pass, said bill shall not be entitled to a reading unless it is ordered by the vote of a majority of all the members of the House; and upon the question whether or not said bill shall be read, the report of the committee to the contrary notwithstanding, no debate shall be allowed except that the originator of a bill or anyone indicated by him, shall have ten minutes in which to explain the bill; and any member of the committee who favors the report of the committee may have a like time in which to explain the action of the committee, and then if said bill shall be ordered to a reading, it shall be read the first time in full and recommitted or placed in the calendar.

Rule 24. *Enrollment Committee.* The Committee on Enrollment may report any time.

Rule 25. *Rules Committee.* No bill shall be considered by the House during the last fifteen legislative days of the 1940 Regular Session except upon the recommendation or report of the Rules Committee.

During the times next hereinabove provided, the Rules Committee shall be authorized to call from the other committees any bill or resolution in their hands and may have them advanced to the reading to which the bills may be entitled; providing, however, that for the first ten days thereof, the said committee shall cause to be posted on the day prior thereto, a list of bills and resolutions which are to be called, but said committee may withdraw from said list any bills or resolutions so posted.

If and when the time be fixed for the sine die adjournment of the 1940 regular session of the General Assembly, the "last fifteen legislative days" as hereinabove provided shall be held and construed to mean the last fifteen legislative days next prior to the time so fixed for the sine die adjournment. If the resolution be adopted for sine die adjournment within fifteen days of the time fixed for such adjournment, then the Rules Committee shall take charge for such lesser

number of days as may remain from the time such resolution for sine die adjournment is adopted and the time fixed for such adjournment.

GENERAL PROCEDURE

Rule 26. *First Reading.* Upon the favorable report of a bill or joint resolution by any committee, the Clerk shall report the same in full, which shall be considered the first reading of the bill or joint resolution, and shall be so entered upon the Journal.

Rule 27. *Calendar.* When a bill has had its first reading, it shall be placed by the Clerk on a calendar to be kept by him, and said calendar shall be separate from the bills in the Orders of the Day. Each day when the House enters into the consideration of the Orders of the Day, the Clerk shall take up the Calendar and give all bills therein their second reading except such as have been placed thereupon that day.

Rule 28. *Orders of the Day.* When a bill has been read, a second time, it shall be placed in the Orders of the Day or recommitted and when next reached in the House, it shall be ready for amendment, recommitment or debate, or to be read a third time and placed upon its passage. A bill may be recommitted at any time before final passage. No bill shall be placed upon its final passage during the last day of the session except bills in possession of Conference Committees.

Rule 29. *Voting.*

(a) No member shall vote on any question in which he is directly or indirectly interested, or on any question unless he was in the bar of the House before the result was announced.

(b) Every member in the House, when a question is put, or who is present before the results are announced, shall vote unless excused by the House; and all motions to excuse a member from voting shall be made before the House divides or before the call of the yeas and nays is commenced; and the

motion or question to excuse a member shall be decided without debate, and in no event shall any member be excused from voting on a motion to excuse another member from voting. But this rule shall not apply to the Speaker, whose name shall not be called except upon his own request and then only at the end of the roll call and before the result is announced, but in all cases of a tie the Speaker shall vote.

(c) Before a vote shall be counted, the member casting it shall be either at his seat or visibly approaching it.

(d) All pairs announced in the House shall be entered on the Journal.

(e) Calls of Yeas and Nays. Upon a call of the yeas and nays on any question, the names of the members shall be called alphabetically, which shall be made at any time when a division or a count may be had, and upon the completion of any roll call, the Speaker shall, upon the request of any member, order the Clerk to call the absentees once.

(f) Call of the House. Upon a call of the House, the door shall not be shut against a member until his name is called twice and then absentees shall be noted by the Clerk and fined one dollar unless excused by the House.

General Provisions

Rule 30. When a member is about to speak in debate or deliver any matter to the House, he shall rise from his seat and respectfully address the Speaker of the House as "Mr. Speaker," but shall not proceed until recognized by the Speaker as the member from ————.

Rule 31. No member shall speak more than twice on the same question without leave of the House, and he shall not speak more than once until every member of the House desiring to speak has spoken. No member shall be allowed to speak more than one-half hour in the aggregate.

Rule 32. While the Speaker is putting any question, or addressing the House, no one shall walk about the House, or

leave; neither in such case nor when a member is speaking, shall anyone talk or pass between the chair and the member who is speaking. No member shall in debate name another member.

Rule 33. Any proposed alteration, change or amendment of the Rules shall before a vote thereon is taken, be referred by the Speaker to a committee and the proposal shall be considered by the committee and reported in the same manner as bills and resolutions and before any alteration, change or amendment shall be adopted, a majority of the duly elected members of the House must vote in favor thereof.

In all cases where general parliamentary law provides for the rule of two-thirds, it shall mean in this House, a majority of the duly elected members of this House.

Rule 34. *Persons Entitled to Floor.* No person shall be permitted upon the floor of the House except the Governor, members of his family, his secretary and office aides or employees, and persons designated to the Speaker by the Governor as aides; Judges and Commissioners of the Court of Appeals, members of the immediate families of legislators, officers of the Senate. Bona fide newspaper correspondents, designated as such in writing by the daily newspaper or press service they represent, shall be admitted to the privileges of the floor when recommended by the Capitol Press Club and approved by the Speaker; provided, that the Speaker may admit any such bona fide correspondent upon the request of the newspaper or press service represented by such correspondent notwithstanding any contrary recommendations of the Capitol Press Club. Such newspaper correspondents when admitted to the privilege of the floor shall be governed by the rules of this House. Accredited newspaper correspondents shall be assigned by the Speaker to a press section specifically set aside for them by the order of the Speaker.

Provided that any one person may be extended the privilege of the floor, but such privilege shall be extended

only for a specified day and no other; and, provided further that the Speaker shall have the power to limit the number of such motions for such invitations whenever in his judgment the business of the House so requires.

No person who shall have been extended the privilege of the floor for a specific time, as herein provided, shall engage in any activities for or against any bill, motion, or other proceeding upon the floor of the House while in session.

Rule 35. *Lobbying.* No person shall engage in lobbying for or against any measure while the House is in session in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter into any of the rooms assigned to the use of the House while the House is in session, or remain in the corridors or passages on the third floor of the Capitol assigned to the use of the House. Provided, however, this rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

No person registered as a lobbyist shall be extended the privilege of the floor and no extension of the privilege of the floor shall be valid as to any registered lobbyist unless it be stated openly on the floor at the time the motion is made that the person is a registered lobbyist and unless such person be invited by a majority vote of the House to appear and speak for or against pending legislation.

Rule 36. *Suspension of the Rules.* The standing rules of the House and the regular order of business shall not be suspended, amended or interrupted unless by a vote of a majority of the duly elected members of the House. Whenever the rules are suspended as above, no subject matter shall be considered under the suspension except the subject matter in whose favor the suspension was invoked and only for that day.

Rule 38. On all questions not provided for in the foregoing rules, the House shall be governed by the provisions of Robert's Rules of Order (lates revised edition).

HOUSE COMMITTEES

House Officers

Speaker ..... B. F. Shields
Chief Clerk ..... W. A. Perry
Assistant Clerk ..... Brooks L. Hargrove
Sergeant-at-Arms ..... Dauphin Hunter
Enrolling Clerk ..... Mrs. Lucian Haynes

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Gus A. Brooks, Chairman

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Joe E. Robinson	James H. Woods	J. Wood Vance
John S. Juett	Faust Y. Simpson	

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Davis Moore, Chairman

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Wayne Freeman	John H. Cox	W. Q. Daniel
Eugene Gough	G. C. Springate	

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Sam Milam, Chairman

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W. H. Riley	Bruce Sloan	S. J. Wagner
F. E. Daugherty	Henry Ward	

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Eugene Gough	Chas. X. Jones	Edward Leslie
J. Everett Bach	C. L. Hammons	

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John M. Hunnicutt	F. E. Daugherty	T. P. Fitzpatrick
Hobart Rayburn	Stanley S. Dickson	

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Edward Leslie	Robert E. Barry	Frank C. McElwain
T. H. Hickey	Charles M. Carter	

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John Hunnicutt, Chairman

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Randolph A. Brown	W. St. Clair Stuart	John S. Juett
Harry F. Walters	Wm. T. Beard	

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Sterling B. Blake, Chairman

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Sam G. Milam	T. H. Hickey	Harry F. Walters
Davis Moore	S. B. Chrisman	

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E. Hayes McMakin	W. Q. Daniel	

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Otto Smither	Harvey D. Leonard	

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T. P. Fitzpatrick	S. J. Wagner	

Cites of Third Class

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Eugene Gough	C. L. Hammons	Carlos Fallis
Lyman Roll	John Coulter	

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Wayne Freeman	Ralph C. Hamilton	

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Frank C. McElwain	John B. Mollette	

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Jack Savage	Leon J. Shaikun	

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Carl D. Perkins	Douglas T. Bolling	

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Eugene Gough	E. T. Sparks	

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Cecil Florence	Stanley C. Moebus	

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Pink G. Curd	Joe T. Morgan	

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Ray J. Stengel	J. F. Bosworth	

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J. Claude Stacy	John B. Mollette	Alvis S. Bennett
Charles M. Carter	Harry W. Ennis	

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Lyman Roll	John H. Cox	H. L. Waterfield
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Hobart Rayburn	J. Lee Moore	

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Norris McPherson	Carlos Fallis	

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Pink G. Curd	D. E. Edwards	Rell Bevins
Paul W. Lyon	W. S. Brim	

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William K. King	Alvis S. Bennett	Thomas Rigdon
Sterling B. Blake	G. M. Ballard	

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Davis Moore	R. R. Ernst	Wayne Freeman
Carl Scheben	Eugene Gough	

Redistricting Judicial
J. Claude Stacy, Chairman

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Ray J. Stengel	James H. Woods	Chester Huffines
Henry Stewart	C. L. Hammons	

Redistricting Legislative
Carlos Fallis, Chairman

E. Hayes McMakin	W. H. Hunt	Chas. X. Jones
T. H. Hickey	R. L. Jackson	John S. Juett
Clyde S. Howard	J. B. Jarboe, Jr.	

Retrenchment and Reform
S. J. Wagner, Chairman

W. St. Clair Stuart	John H. Cox	J. Claude Stacy
Norris McPherson	D. E. Edwards	Ray O. Shehan
Pink G. Curd	Clyde S. Howard	

Revenue and Taxation No. 1
Joe E. Robinson, Chairman

Douglas T. Bolling	H. O. Porter	T. B. McConnell
Harry F. Walters	Randolph A. Brown	J. Claude Stacy
J. Lee Moore	James W. Chapman	

Revenue and Taxation No. 1-A
Clyde S. Howard, Chairman

G. C. Springate	Joe T. Morgan	John S. Juett
Wayne Freeman	S. J. Wagner	Sterling B. Blake
H. T. Baker	W. H. Riley	

Roads and Highways No. 1
Harry F. Walters, Chairman

W. S. Brim	Clyde S. Howard	Joe T. Morgan
E. Hayes McMakin	Faust Y. Simpson	J. Claude Stacy
Van Y. Greene	J. F. Bosworth	

Roads and Highways No. 1-A
W. A. Lamkin, Jr., Chairman

Gus A. Brooks	C. C. May	Forest C. Easley
Chester Huffines	R. L. Jackson	B. W. Porter
Alvis S. Bennett	H. L. Waterfield	

Social Security
Eugene Gough, Chairman

Chas. X. Jones	John B. Mollette	Carlos Fallis
Carl Scheben	John M. Hunnicutt	Joe T. Morgan
Edward Leslie	Henry Stewart	

State Affairs
Lyman Roll, Chariman

H. T. Baker	Porter Wallace	Carl Scheben
G. M. Ballard	John B. Mollette	Bruce Sloan
C. Homer Neikirk	Chester Huffines	

State Fair
Grover Springate, Chairman

Chester Huffines	W. A. Lamkin, Jr.	Otis C. Thomas
Kleber F. Price	Carl D. Perkins	Otto Smither
Pink G. Curd	Thomas Rigdon	

State Properties
Hobart Rayburn, Chairman

S. B. Chrisman	E. Hayes McMakin	E. T. Sparks
Carlos Fallis	Stanley C. Moebus	Henry Stewart
C. W. Anderson, Jr.	J. F. Bosworth	

State and National Parks
J. Wood Vance, Chairman

Haynes Carman	Harry W. Ennis	Frank C. McElwain
S. B. Chrisman	T. H. Hickey	Lyman Roll
John Coulter	Harvey D. Leonard	

State Universities
William King, Chairman

C. J. Bronston	Otis C. Thomas	Hobart Rayburn
Pink G. Curd	C. Homer Neikirk	Carl D. Perkins
W. A. Lamkin, Jr.	Kleber F. Price	

Suffrage and Elections
Otto Smither, Chairman

Forest C. Easley	Chas. X. Jones	J. Claude Stacy
T. P. Fitzpatrick	Hobart Rayburn	G. C. Springate
J. B. Jarboe, Jr.	Henry Ward	

Teachers Colleges
Pink G. Curd, Chairman

C. W. Anderson, Jr.	Wayne Freeman	Wm. T. Beard
Alvis S. Bennett	Van Y. Greene	W. A. Lamkin, Jr.
Harry W. Ennis	Edward Leslie	

Trade and Commerce
Wade Riley, Chairman

W. Q. Daniel	Kleber F. Price	Douglas T. Bolling
D. E. Edwards	Thomas Rigdon	Charles M. Carter
C. Homer Neikirk	Sterling B. Blake	

Veterans' Legislation
Forest C. Easley, Chairman

Douglas T. Bolling	W. Paul Lyon	Ray O. Shehan
Cecil Florence	T. B. McConnell	T. M. Swope
Ralph C. Hamilton	Kleber F. Price	
T. H. Hickey	Lyman Roll	

Ways and Means
Chester Huffines, Chairman

W. H. Riley	Forest C. Easley	Kleber F. Price
C. J. Bronston	T. B. McConnell	Hobart Rayburn
Stanley S. Dickson	Carl D. Perkins	

Mr. Shehan requested unanimous consent for Attorney General A. E. Funk to appear before the House for the purpose of answering questions relating to the Rules as drafted by the Special Committee.

By unanimous consent, said request was granted and General Funk, taking his place at the Clerk's desk, answered such questions as were propounded by the members of the House.

Mr. Ward offered the following amendment to the rules as drafted by the Special Committee, viz.:

Amend the Rules as drafted by the Special Committee by striking therefrom Section (b) of Rule 22 and by changing "(c)" to "(b)".

Said amendment was agreed to.

Mr. Ward moved that the rules as proposed by the Special Committee on Rules, be adopted, as amended.

Said motion was agreed to.

Said rules were then approved and adopted.

Mr. Ward moved that the vote by which said rules were adopted be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed the following resolution which orginated in the Senate, viz.:

S. Res. 6. Joint Resolution protesting against the removal of Statistical Bureau No. 9 of the Bituminous Coal Division from Louisville, Kentucky to Indianapolis, Indiana.

Said resolution is as follows, viz.:

WHEREAS, the Bituminous Coal Division has ordered Statistical Bureau No. 9 at Louisville to be discontinued on January 31st and all the records of said office removed to Indianapolis, Indiana, where it will be consolidated with another Statistical Bureau, and

WHEREAS, Statistical Bureau No. 9 was established and has been maintained for the purpose of procuring statistics on the coal mining industry in Western Kentucky

which statistics are believed will be of great value to the coal industry in mining and marketing coal, and

WHEREAS, an excise tax of 1c per ton is levied on all the coal mined in Western Kentucky, which tax amounts annually to about $100,000, out of which sum the expense of the maintenance of said statistical bureau is paid, and

WHEREAS, this tax is levied upon the natural resources of Western Kentucky from the mining of which thousands of Kentuckians derive a livelihood, and

WHEREAS, if the office is removed a large number of Kentuckians will lose their positions and Indianians will be employed in their places, which will result in no economy but merely give positions now held by Kentuckians to Indianians, and

WHEREAS, the coal industry in the State of Indiana is in competition for markets with the industry in Western Kentucky and it is obvious that it would be harmful and injurious to the industry in Kentucky to remove this statistical bureau from Kentucky and locate it in Indiana, hundreds of miles distant from the Western Kentucky coal fields, NOW THEREFORE

Be it Resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives Concurring Therein, that the Senate and the House of Representatives, constituting the General Assembly of the Commonwealth of Kentucky, earnestly protest against the discontinuance of said statistical bureau No. 9 and the removal of the records of said bureau to Indianapolis, Indiana; that said proposal is unfair, unjust and unnecessary, and, if carried out, will adversely affect the coal industry in Western Kentucky, including the employment of many thousand coal miners; that United States Senator Alben W. Barkley and A. B. Chandler are now requested to take such steps as they may deem necessary to prevent such removal; and be it further resolved that the Clerk of the Senate and the Clerk of the

House of Representatives are instructed to prepare and mail to Senators Barkley and Chandler each a copy of this resolution.

Said resolution was then concurred in.

Mr. Sloan moved that the rules of this House be suspended for the purpose of introducing a bill.

Said motion was agreed to.

Thereupon Mr. Sloan offered the following bill, viz.:

H. B. 86. AN ACT relating to fish and game and providing a method for raising additional funds for the purchase and propagation thereof through voluntary donations and prescribing the compensation of county clerks and the Game and Fish Commission in relation thereto, and providing special tags and awards in recognition of donors to such fund.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The State Game and Fish Commission of Kentucky is hereby authorized, directed and required to set up, receive, maintain and administer a special fund to be known as "The Kentucky Sportsmen's Voluntary Fund", and to be comprised of gifts and donations of Kentucky Sportsmen and other interested persons. The term "Commission" as used in this Act shall mean the Game and Fish Commission of Kentucky, or the Division of Game and Fish of the Department of Conservation of Kentucky, or the director of said division, whichever meaning best expresses the purport of this Act and conforms to the language of existing law.

§ 2. Any Kentucky sportsman or other interested person may make voluntary contributions or donations to the Commission for the use and benefit of said fund, but in order to encourage such donations and provide a systematic plan for building up such fund, it shall be the duty of the Commission to design, print and furnish neat and attractive metal license tags of a special design to be issued to purchasers of regular hunting and fishing licenses who also make donations to said fund. Such tags shall be issued in two series, one for hunters and the other for fishermen, and each series shall be of three grades in addition to the regular tags which are now issued to buyers of licenses at the regular price as now fixed by law. These special tags shall be issued in token of contributions of donations of $1, $4, or $9, as the case may be, to said fund, such special tags being issued in lieu of the regular license tags to buyers who, in addition to paying the regular license fees, also make donations to said funds. The Commission shall supply such tags to the county clerks of the various counties of the State as their demands may require.

§ 3. It shall be the duty of all county clerks of this state, when selling either hunting or fishing licenses, to call the attention of all buyers of such licenses to the provisions of this Act and offer them an opportunity to contribute to "The Kentucky Sportsmen's Special Fund", as herein defined, and obtain the special license tags or badges herein provided for. County clerks shall explain that the licensee has the option of buying licenses at either $1, $2, $5, or $10, and he will receive a badge or tag indicating the grade of license he has bought and the amount of his contribution to said voluntary fund, and that the amount so paid, over and above the regular price of the license, is a voluntary contribution to help increase and maintain the supply of fish and game in Kentucky for the benefit of all fishermen and hunters. The price of such special tags to non-resident hunting and fishing licensees, plus the amount of the voluntary donation indicated on the special tag to be issued.

§ 4. For his services in selling the special tags and collecting and remitting to the Commission the said voluntary contributions to said fund, the county clerk shall be entitled to a commission of 10% of all such voluntary contributions so collected by him, in addition to the compensation now allowed him for issuing licenses as now provided by law, and said commission shall be deducted by him when remitting his collections to the Commission. The Commission is further authorized at its discretion to set aside a sum not exceeding One Thousand ($1,000) in any year, to buy appropriate prizes for the four clerks in the state who collect the largest amounts in such voluntary contributions in proportion to the amounts of money received from the regular price of such licenses sold in their respective counties. The Commission shall make such rules and regulations as it deems proper for awarding such prizes.

§ 5. Any person who purchases a Ten Dollar ($10) hunting tag, or a Ten Dollar ($10) fishing tag, in each of three successive years, or three of the same kind and grade of tags in one year, shall be entitled to a hunting license, or a fishing license, as the case may be, good during his life-time, and the same shall be issued to him together with an appropriate permanent badge upon his application to the Commission. In like manner a non-resident of Kentucky may obtain a life-time license for either hunting or fishing by buying three successive licenses at a price equal to the regular price of the non-resident's license plus Nine ($9) Dollars.

§ 6. All funds coming into the hands of the Commission for the use of said "Kentucky Sportsmen's Voluntary Fund" shall be earmarked and used for no other purpose whatsoever. After paying the necessary fees and expenses for the collection and administration of such fund said fund shall be expended as follows: So much of said fund as comes from the sale of hunting tags shall be used solely for the purchase of game for distribution. So much of said fund as comes from the sale of fishing tags shall be used solely to

purchase and raise fish to be released in Kentucky waters that the Commission deems best.

§ 7. The Commission shall have power and authority to make and enforce all rules and regulations it deems necessary to carry out the provisions of this Act.

§ 8. All acts and parts of acts which are in conflict or inconsistent with this act are, to the extent of such conflict or inconsistency, hereby repealed.

§ 9. If any part of this act, or any order or rule of the Commission made or issued in pursuance of this act, shall for any reason be adjudged, by any court of competent jurisdiction, to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to such part of this act or such rule or order directly involved in controversy in which said judgment shall have been rendered.

Ordered that said bill be printed and referred.

Mr. Joe Robinson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, JANUARY 11, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend Brooks L. Hargrove, Assistant Clerk of the House.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr. J. Everett Bach H. T. Baker

G. M. Ballard	Van Y. Greene	Kleber F. Price
Robert E. Barry	Ralph C. Hamilton	Hobart Rayburn
Wm. T. Beard	C. L. Hammons	Thomas Rigdon
Alvis S. Bennett	T. H. Hickey	Joe E. Robinson
Rell Bevins	Chester Huffines	Lyman Roll
Sterling B. Blake	John M. Hunnicutt	Jack Savage
Douglas T. Bolling	W. H. Hunt	Carl Scheben
J. F. Bosworth	R. L. Jackson	Leon J. Shaikun
W. S. Brim	J. B. Jarboe, Jr.	Ray O. Shehan
C. J. Bronston	Chas. X. Jones	Faust Y. Simpson
Gus A. Brooks	William K. King	Bruce Sloan
Randolph A. Brown	W. A. Lamkin, Jr.	Otto Smither
Haynes Carman	Robert E. Lee	E. T. Sparks
Charles M. Carter	Harvey D. Leonard	G. C. Springate
James W. Chapman	Edward Leslie	J Claude Stacy
S. B. Chrisman	W. Paul Lyon	Ray J. Stengel
John Coulter	C. C. May	Henry Stewart
John H. Cox	T. B. McConnell	W. St. Clair Stuart
Pink G. Curd	Frank C. McElwain	T. M. Swope
W. Q. Daniel	E. Hayes McMakin	Otis C. Thomas
F. E. Daugherty	Norris McPherson	Erna E. Tyra
Stanley S. Dickson	Stanley C. Moebus	J. Wood Vance
Forest C. Easley	John B. Mollette	Walter R. Vansant
D. E. Edwards	Davis Moore	S. J. Wagner
Harry W. Ennis	J. Lee Moore	Porter Wallace
R. R. Ernst	Joe T. Morgan	Harry F. Walters
Carlos Fallis	C. Homer Neikirk	Henry Ward
T. P. Fitzpatrick	Carl D. Perkins	H. L. Waterfield
Wayne Freeman	B. W. Porter	Otis White
Eugene Gough	H. O. Porter	James H. Woods

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The Speaker announced the following Standing Committees of the House of Representatives during this session of the General Assembly, viz.:

Agriculture No. 1

1. Gus A. Brooks, Chairman
2. Harry F. Walters
3. Joe E. Robinson
4. John S. Juett

5. Stanley Dickson
6. James H. Woods
7. Foust Y. Simpson
8. Forest C. Easley
9. J. Wood Vance

Agriculture No. 1-A

1. Davis Moore, Chairman
2. Rell Bevins
3. Wayne Freeman
4. Eugene Gough
5. R. L. Jackson
6. John H. Cox
7. Grover C. Springate
8. William King
9. W. Q. Daniel

Alcoholic and Liquor Control No. 1

1. Sam Milam, Chairman
2. Thomas J. Fitzpatrick
3. Wade H. Riley
4. Frank E. Daugherty
5. Forest C. Easley
6. Bruce Sloan
7. Henry Ward
8. Hobert Rayburn
9. S. J. Wagner

Alcoholic and Liquor Control No. 1-A

1. W. S. Brim, Chairman
2. Porter Wallace
3. Eugene Gough
4. J. Everett Bach
5. R. E. Barry
6. Charles X. Jones
7. Claude L. Hammons
8. Paul Lyon
9. Edward Leslie

Appropriations No. 1

1. J. Lee Moore, Chairman
2. Joe Robinson
3. John Hunnicutt
4. Hobart Rayburn
5. Henry Ward
6. Frank Daugherty
7. Stanley Dickson
8. Otis White
9. Thomas Fitzpatrick

Appropriations No. 1-A

1. Ralph Hamilton, Chairman
2. T. M. Swope
3. Edward Leslie

4. T. H. Hicky
5. Charles Anderson
6. Robert E. Barry
7. Charles Carter
8. Claude Hammons
9. Frank C. McElwain

Banks and Banking

1. John Hunnicutt, Chairman
2. Sterling Blake
3. Randolph Brown
4. Harry F. Walters
5. Harry L. Waterfield
6. William St. Clair Stuart
7. W. T. Beard
8. R. L. Jackson
9. John S. Juett

Bond Issues

1. Sterling B. Blake, Chairman
2. Randolph Brown
3. Sam Milam
4. Davis Moore
5. Claude Hammons
6. T. H. Hicky
7. S. B. Chrisman
8. Walter R. Vansant
9. Harry F. Walters

Charitable and Penal Institutions

1. Carl D. Perkins, Chairman
2. Joe Robinson
3. C. J. Bronston
4. E. Hayes McMakin
5. Carl Scheben
6. Chester Huffines
7. Wm. Q. Daniel
8. Van Y. Greene
9. Otis White

Circuit Courts

1. J. B. Jarboe, Jr., Chairman
2. C. C. May
3. Van Y. Greene
4. Otto Smither
5. Frank Daugherty
6. John M. Hunnicutt
7. Harvey D. Leonard
8. Norris McPherson
9. Wm. St. Clair Stuart

Cities of First Class

1. Leon J. Shaikun, Chairman
2. R. E. Barry
3. R. E. Stengel

4. Norris McPherson
5. Randolph Brown
6. Jack Savage
7. Charles Anderson

Cities of Second Class

1. Henry Ward, Chairman
2. C. J. Bronston
3. James Chapman
4. Thomas Fitzpatrick
5. Carl Scheben
6. William King
7. S. J. Wagner
8. John Hunnicutt

Cities of Third Class

1. Harry W. Ennis, Chairman
2. Douglas Bolling
3. Eugene Gough
4. Lyman Roll
5. Joe Bosworth
6. Claude Hammons
7. John Coulter
8. Gus A. Brooks
9. Carlos Fallis

Cities of Fourth Class

1. Rell Bevins, Chairman
2. R. R. Ernst
3. W. H. Hunt
4. Wayne Freeman
5. T. B. McConnell
6. J. B. Jarboe, Jr.
7. Ralph Hamilton
8. John H. Cox
9. Stanley Moebus

Cities of Fifth and Sixth Classes

1. Kleber F. Price, Chairman
2. Charles X. Jones
3. W. T. Beard
4. Harvey D. Leonard
5. T. M. Swope
6. S. B. Chrisman
7. G. M. Ballard
8. Haynes Carman
9. W. S. Brim

Claims

1. Thomas Rigdon, Chairman
2. John Hunnicutt
3. J. B. Jarboe, Jr.
4. John Juett
5. C. C. May
6. Frank McElwain
7. Ray O. Shehan
8. Kleber Price
9. Joe T. Morgan

Classification, Cities and Towns

1. E. Hayes McMakin,
2. R. L. Jackson
3. Charles X. Jones
4. Frank McElwain
5. Otto Smither
6. Erna Tyra
7. John B. Mollette
8. Carl D. Perkins
9. Jack Savage

Codes of Practice

1. Jos Bosworth, Chairman
2. Harvey D. Leonard
3. C. C. May
4. Jack Savage
5. Sam Milam
6. Ray O. Shehan
7. Leon Shaikun
8. Foust Y. Simpson
9. James Chapman

Compensation for Industrial Injuries

1. T. B. McConnell, Chairman
2. Thomas Rigdon
3. James Chapman
4. Carl D. Perkins
5. R. E. Barry
6. Cecil Florence
7. Douglas Bolling
8. Ray O. Shehan
9. A. S. Bennett

Constitutional Amendments

1. John Coulter, Chairman
2. Rell Bevins
3. Thomas Fitzpatrick
4. Eugene Gough
5. Ralph Hamilton
6. Clyde Howard
7. E. T. Sparks
8. P. G. Curd
9. D. E. Edwards

Corporate Institutions

1. Charles X. Jones, Chairman
2. Otto Smither
3. Charles W. Anderson
4. J. Everett Bach
5. H. T. Baker
6. G. M. Ballard
7. A. S. Bennett
8. Davis Moore
9. Joe Morgan

County and City Courts

1. Walter R. Vansant, Chairman
2. J. B. Jarboe, Jr.
3. Erna E. Tyra
4. Harry F. Walters
5. Harry Lee Waterfield
6. Otis White
7. James H. Woods
8. Porter Wallace
9. P. G. Curd

Court of Appeals

1. Harry Lee Waterfield, Chairman
2. Stanley Moebus
3. Leon J. Shaikun
4. S. J. Wagner
5. Homer Neikirk
6. H. O. Porter
7. Frank Daugherty
8. Sam Milam
9. J. Lee Moore

Criminal Law

1. C. C. May, Chairman
2. Harvey D. Leonard
3. Stanley Moebus
4. H. O. Porter
5. Ray O. Shehan
6. Leon J. Shaikun
7. Joe E. Robinson
8. Carl D. Perkins
9. Hobert Rayburn

Education No. 1

1. H. O. Porter, Chairman
2. W. Q. Daniel
3. Forrest Easley
4. Cecil Florence
5. Clyde Howard
6. W. A. Lamkin, Jr.
7. Stanley Moebus
8. C. W. Anderson, Jr.
9. Foust Simpson

Education No. 1-A

1. John H. Cox, chariman
2. Chester Huffines, Jr.
3. Otto Smither
4. Grover Springate
5. Homer Neikirk
6. Paul Lyon
7. Rell Bevins
8. C. C. May
9. Robert E. Lee

Enrollment

1. Stanley Dickson, Chairman
2. John Hunnicutt
3. W. A. Lamkin, Jr.
4. Otto Smither
5. Grover Springate
6. Davis Moore
7. Wade Riley
8. Jack Savage
9. E. T. Sparks

Executive Affairs

1. Wayne Freeman, Chairman
2. R. R. Ernst
3. Carlos Fallis
4. Robert E. Lee
5. Paul Lyon
6. Bruce Sloan
7. E. T. Sparks
8. Porter Wallace
9. Otis White

Federal Relations

1. J. Everett Bach, Chairman
2. G. M. Ballard
3. Gus A. Brooks
4. Charles Carter
5. W. H. Hunt
6. William King
7. Otto Smither
8. E. T. Sparks
9. Harry Lee Waterfield

Fish and Game No. 1

1. W. T. Beard, Chairman
2. Kleber Price
3. Bruce Sloan
4. John Coulter
5. T. B. McConnell
6. D. E. Edwards
7. H. T. Baker
8. Wm. St. Clair Stuart
9. Wade Riley

Fish and Game No. 1-A

1. Harvey D. Leonard, Chairman
2. Cecil Florence
3. Eugene Gough
4. J. B. Jarboe, Jr.
5. Haynes Carman
6. Robert E. Lee
7. John B. Mollette
8. James H. Woods
9. J. Everett Bach

Immigration and Labor

1. Robert E. Barry, Chairman
2. J. Everett Bach
3. John Cox
4. Chester Huffines
5. W. H. Hunt
6. Edward Leslie
7. A. S. Bennett
8. Davis Moore
9. E. T. Sparks

Insurance, Fire and Marine

1. T. M. Swope, Chairman
2. H. T. Baker
3. Robert E. Barry
4. Sterling Blake
5. Clyde Howard
6. R. E. Stengel
7. W. T. Beard
8. A. S. Bennett
9. Rell Bevins

Insurance, Life and Casualty

1. James H. Woods, Chairman
2. T. H. Hickey
3. R. L. Jackson
4. Robert E. Lee
5. Davis Moore
6. Norris McPherson
7. Van Y. Greene
8. J. Lee Moore
9. W. S. Brim

Interurban and City Railways

1. R. E. Stengel, Chairman
2. S. J. Wagner
3. John Hunnicutt
4. Thomas Fitzpatrick
5. Norris McPherson
6. Robert E. Barry
7. Randolph A. Brown
8. Leon Shaikun
9. Charles W. Anderson

Judiciary

1. Ray O. Shehan, Chairman
2. Leon J. Shaikun
3. G. M. Ballard
4. C. J. Bronston
5. Stanley Meobus
6. J. Wood Vance
7. Otis White
8. H. O. Porter
9. Gus A. Brooks

Judicial Council

1. Randolph A. Brown, Chairman
2. Frank E. Daugherty
3. J. Lee Moore
4. C. J. Bronston
5. Stanley C. Moebus
6. Sam Milam
7. H. O. Porter
8. Ray O. Shehan
9. G. M. Ballard

Juvenile Courts and Children's Homes

1. B. W. Porter, Chairman
2. Jack Savage
3. John B. Mollette
4. Joe T. Morgan
5. Homer Neikirk
6. Carl Scheben
7. Erna Tyra
8. W. T. Beard
9. W. A. Lamkin

Kentucky Statutes No. 1

1. Frank E. Daugherty, Chairman
2. Joe E. Robinson, Vice Chairman
3. Stanley S. Dickson
4. Norris McPherson
5. Douglas T. Bolling
6. Sam Milam
7. Henry Ward
8. J. Lee Moore
9. John M. Hunnicutt

Kentucky Statutes No. 1-A

1. Wm. St. Clair Stuart, Chairman
2. Carl D. Perkins
3. Foust Y. Simpson
4. J. Claude Stacy
5. Forest C. Easley
6. Kleber F. Price
7. Van Y. Greene
8. C. J. Bronston
9. T. B. McConnell

Library and Historical Records

1. Wm. Q. Daniel, Chairman
2. Charles Carter
3. R. R. Ernst
4. Robert E. Lee
5. B. W. Porter
6. Walter R. Vansant
7. J. Everett Bach
8. H. T. Baker
9. Douglas T. Bolling

Military Affairs

1. Cecil Florence, Chairman
2. Charles Carter
3. R. R. Ernst
4. W. Paul Lyon
5. B. W. Porter
6. Otis C. Thomas
7. Erna E. Tyra
8. W. S. Brim
9. Gus A. Brooks

Mines and Mining

1. Foust Y. Simpson, Chairman
2. John H. Cox
3. Harry W. Ennis
4. P. G. Curd
5. Ralph C. Hamilton
6. W. H. Hunt
7. Joe T. Morgan
8. Ray O. Shehan
9. John B. Mollette

Miscellaneous Affairs

1. Van Y. Greene, Chairman
2. Forest C. Easley
3. Sterling B. Blake
4. Douglas T. Bolling
5. James W. Chapman
6. Thomas Rigdon
7. Foust Y. Simpson
8. Bruce Sloan
9. Grover Springate

Motor Transportation

1. Norris McPherson, Chairman
2. J. Lee Moore
3. Stanley Dickson
4. Harry Lee Waterfield
5. J. J. Savage
6. Sam Milam
7. Foust Simpson
8. J. Wood Vance
9. John M. Hunnicutt

Municipalities

1. C. J. Bronston, Chairman
2. J. Lee Moore
3. James W. Chapman
4. R. E. Stengel
5. John M. Hunnicut
6. J. Wood Vance
7. Joe Bosworth
8. Wm. Q. Daniel
9. Joe T. Morgan

Oils and Minerals

1. Douglas T. Bolling, Chairman
2. James W. Chapman
3. Claude J. Stacy
4. Charles Carter
5. Lyman Roll
6. John B. Mollette
7. Harry W. Ennis
8. Van Y. Greene
9. A. S. Bennett

Printing

1. Erna E. Tyra, Chairman
2. Otis C. Thomas
3. W. H. Hunt
4. E. T. Sparks
5. Harry Lee Waterfield
6. Otto Smither
7. Walter R. Vansant
8. R. E. Stengel
9. Charles X. Jones

Public Bridges and Ferries

1. D. E. Edwards, Chairman
2. H. T. Baker
3. Gus A. Brooke
4. Robert E. Lee
5. B. W. Porter
6. Thomas Rigdon
7. Bruce Sloan
8. Claude J. Stacy
9. Porter Wallace

Public Ditches

1. R. L. Jackson, Chairman
2. D. E. Edwards
3. Lyman Roll
4. Wayne Freeman
5. Porter Wallace
6. John H. Cox
7. Foust Y. Simpson
8. W. H. Hunt
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2. Carl D. Perkins
3. Grover Springate
4. Hobart Rayburn
5. Charles Bronston
6. Bruce Sloan
7. J. Lee Moore
8. J. Wood Vance
9. W. Q. Daniels

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3. Leon J. Shaikun
4. Norris McPherson
5. Bruce Sloan
6. Douglas Bolling
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2. Henry Ward
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5. Otis White
6. Frank Daugherty
7. Harvey D. Leonard
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9. William King

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2. T. B. McConnell
3. William King
4. Sterling Blake
5. H. O. Porter
6. A. S. Bennett
7. M. G. Ballard
8. Wm. St. Clair Stuart
9. Thomas Rigdon

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2. J. Everett Bach
3. Davis Moore
4. Carl Scheben
5. Walter R. Vansant
6. R. R. Ernst
7. Eugene Gough
8. Leon J. Shaikun
9. Wayne Freeman

Redistricting Judicial

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2. B. W. Porter
3. R. E. Stengel
4. Henry Stewart
5. Porter Wallace
6. James H. Woods
7. Claude L. Hammons
8. Ralph C. Hamilton
9. Chester Huffines

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1. Carlos Fallis, Chairman
2. E. Hayes McMakin
3. T. H. Hickey
4. Clyde S. Howard
5. W. H. Hunt
6. R. L. Jackson
7. J. B. Jarboe, Jr.
8. Charles X. Jones
9. John S. Juett

Retrenchment and Reform

1. S. J. Wagner, Chairman
2. Wm. St. Clair Stuart
3. Norris McPherson
4. P. G. Curd
5. John H. Cox
6. D. E. Edwards
7. Clyde S. Howard
8. J. Claude Stacy
9. Ray O. Shehan

Revenue and Taxation No. 1

1. Joe E. Robinson, Chairman
2. Douglas T. Bolling
3. Harry Walters
4. J. Lee Moore
5. H. O. Porter
6. Randolph A. Brown
7. James W. Chapman
8. T. B. McConnell
9. J. Claude Stacy

Revenue and Taxation No. 1-A

1. Clyde S. Howard, Chairman
2. Grover Springate
3. Wayne Freeman
4. H. T. Baker
5. Joe T. Morgan
6. S. J. Wagner
7. Wade Riley
8. John S. Juett
9. Sterling B. Blake

Roads and Highways No. 1

1. Harry F. Walters, Chairman
2. W. S. Brim
3. E. Hayes McMakin
4. Van Y. Greene
5. Clyde S. Howard
6. Foust Y. Simpson
7. Joe F. Bosworth
8. Joe T. Morgan
9. J. Claude Stacy

Roads and Highways No. 1-A

1. W. A. Lamkin, Jr., Chairman
2. Gus A. Brooks
3. Chester Huffines
4. A. S. Bennett
5. C. C. May
6. R. L. Jackson
7. Harry Lee Waterfield
8. Forrest Easley
9. B. W. Porter

Social Security

1. Eugene Gough, Chairman
2. Charles X. Jones
3. Carl Scheben
4. Edward Leslie
5. John B. Mollette
6. John M. Hunnicutt
7. Henry Stewart
8. Carlos Fallis
9. Joe T. Morgan

State Affairs

1. Lyman Roll, Chairman
2. H. T. Baker
3. G. M. Ballard
4. Homer Neikirk
5. Porter Wallace
6. John B. Mollette
7. Chester Huffines
8. Carl Scheben
9. Bruce Sloan

State Fair

1. Grover Springate, Chairman
2. Chester Huffines
3. Kleber F. Price
4. P. G. Curd
5. W. A. Lamkin, Jr.
6. Carl D. Perkins
7. Thomas Rigdon
8. Otis C. Thomas
9. Otto Smither

State Properties

1. Hobart Rayburn, Chairman
2. S. B. Chrisman
3. Carlos Fallis
4. Charles Anderson
5. E. Hayes McMakin
6. Stanley Moebus
7. Joe F. Bosworth
8. E. T. Sparks
9. Henry Stewart

State and National Parks

1. J. Wood Vance, Chairman
2. Haynes Carman
3. S. B. Chrisman
4. John B. Coulter
5. Harry W. Ennis
6. T. H. Hicky
7. Harvey D. Leonard
8. Frank McElwain
9. Lyman Roll

State Universities

1. William King, Chairman
2. C. J. Bronston
3. P. G. Curd
4. W. A. Lamkin, Jr.
5. Otis C. Thomas
6. Homer Neikirk
7. Kleber F. Price
8. Hobart Rayburn
9. Carl Perkins

Suffrage and Elections

1. Otto Smither, Chairman
2. Forest C. Easley
3. Thomas J. Fitzpatrick
4. J. B. Jarboe, Jr.
5. Charles X. Jones
6. Hobert Rayburn
7. Henry Ward
8. J. Claude Stacy
9. Grover Springate

Teachers Colleges

1. P. G. Curd, Chairman
2. C. W. Anderson
3. A. S. Bennett
4. Harry W. Ennis
5. Wayne Freeman
6. Van Y. Greene
7. Edward Leslie
8. W. T. Beard
9. W. A. Lamkin, Jr.

Trade and Commerce

1. Wade Riley, Chairman
2. W. Q. Daniel
3. D. E. Edwards
4. Homer Neikirk
5. Kleber Price
6. Thomas Rigdon
7. Sterling Blake
8. Douglas T. Bolling
9. Charles Carter

Veterans Legislation

1. Forest C. Easley, Chairman
2. Douglas T. Bolling
3. Cecil Florence
4. Ralph C. Hamilton
5. T. H. Hickey
6. W. Paul Lyon
7. T. B. McConnell
8. Kleber Price
9. Lyman Roll
10. Ray O. Shehan

Ways and Means

1. Chester Huffines, Chairman
2. Wade H. Riley
3. C. J. Bronston
4. Stanley Dickson
5 Forest C. Easley
6. T. B. McConnell
7. Carl D. Perkins
8. Kleber F. Price
9. Hobert Rayburn

The following bills and resolution were introduced, viz.:

By Mr. Rigdon.

H. Res. 11. Resolution for the payment of doctors and hospital bills of Alford Lawson.

Said resolution is as follows, viz.:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, on August 4, 1938, in Fleming County, Kentucky, a State Highway truck, while being used in the construction and repair of a State road was operated in such a manner as to suddenly be backed against and over Alford Law-

son of Fleming County, whereby the said Alford Lawson was severely injured, whereby he was confined to the Hayswood Hospital in Maysville, Kentucky, from August 5 to August 22, 1938, where he incurred necessary hospital expenses in the sum of $90.50, and whereby he incurred necessary medical care rendered by Dr. C. McGuire in the sum of $150.00, and,

WHEREAS, under present laws the said Hayswood Hospital and Dr. C. McGuire have no means of being reimbursed for the service rendered to the said Alford Lawson;

Now, therefore, be it resolved by the Commonwealth of Kentucky, that the Auditor of Public Accounts is directed to draw his warrant upon the State Treasurer for the sum of $90.50 in favor of Hayswood Hospital, Maysville, Kentucky, and to draw his said warrant for the sum of $150.00 in favor of Dr. C. McGuire, Maysville, Kentucky.

By Mr. Scheben.

H. B. 87. AN ACT relating to the embezzlement, conversion, misapproprition and/or misapplication of the sinking fund in cities of the second class in the Commonwealth of Kentucky; providing penalties for the non-observance thereof and fixing upon city officers and employees civil liability therefor, and providing for the recovery of any and all amounts so embezzled, converted, misappropriated and/or misapplied.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any officers, agents and/or employees having charge, control and/or possession of the sinking fund or any portion thereof, or any of its property, money or evidences of property, or stocks, bonds, or other valuable thing of any city of the second class of the Commonwealth of Kentucky, who shall willfully embezzle, convert, misappropriate and/or misapply, or who, as a member of the General Council or Board

of Commissioners, shall vote to so embezzle, convert, misappropriate and/or misapply such sinking fund, or any portion thereof, or any officer, agent or employee who could by refusal to act have prevented said embezzlement, conversion, misappropriation and/or misapplication, whether said embezzlement, conversion, misappropriation and/or misapplication be for the purpose of paying, securing or liquidating commitments, and/or debts of said municipality or otherwise, except as provided in Section 3190, et seq., Carroll's Kentucky Statutes, 1936 Edition, shall be deemed guilty of a felony, and upon conviction therefor, shall be confined in the penitentiary of this State for not less than one (1), nor more than twenty (20) years, at the discretion of the jury, and such officers, agents, and/or employees so offending, or their sureties, shall jointly and severally be and they are hereby made personally liable for the amount of such embezzlement, conversion, misappropriation, and/or misapplication. It shall be the duty of the City Solicitor or other legal officer of the municipality to institute and prosecute to recovery, such civil actions, and if he fails to do so for six (6) months after he shall have knowledge of the same, any resident and taxpayer may institute the action or actions in his or her own name, and shall have one-half of the recovery. A civil recovery hereunder shall not militate against the criminal prosecution herein elsewhere provided.

§ 2. This act shall take effect and be in force from and after its passage.

By same.

H. B. 88. An Act to amend and re-enact section 3181 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3181 of Carroll's Kentucky Statutes, 1936 Edition, be, and the same hereby is, amended and re-enacted so that when the same is so amended and re-enacted it shall read as follows:

"Section 3181. Board of equalization; qualifications; compensation; chairman and clerk; general powers and duties.—There shall be a board of equalization to consist of three persons, who shall be selected by the board of commissioners. No person shall be selected as a member of said board who shall not at the time be a housekeeper and owner of real estate of the city, and shall not have been a resident thereof five years next preceding his election. Said board shall be paid such compensation as may, by ordinance, be fixed, and shall meet at a suitable place to be provided by the city on the first Monday in January of each year. They shall first be duly sworn faithfully to discharge their duties, shall elect from among themselves a chairman and a clerk and shall then notify the commissioner of public finance that they are ready to receive the assessment books, etc., which the commissioner of public finance shall deliver them, taking his receipt therefor. The assessor shall be in constant attendance on said board and shall furnish them all information he can. They shall have power to cause all city records to be brought to them for their inspection by the custodian thereof, and if it be necessary to retain them for defense, may do so by receipting therefor to the custodian thereof. They may also interrogate any city official, who shall, at their request, attend them and respond to all questions.

"They shall each have power to administer oaths, and they shall have power to compel the attendance of witnesses, and all persons who shall refuse to attend them or to be sworn by them, or refuse to answer any questions, shall be subject to the same penalties as provided for like refusal to the assessor. They shall first compare his real estate assessment with the plat books in the auditor's office and see that every parcel of real estate in the city has been assessed, and

if they find any has been omitted, shall certify the same, giving the number of parcels omitted to the city solicitor, who shall enforce the penalty provided in Section 3177 against the assessor for so doing, and they shall assess the parcels omitted. They shall hear all complaints against the assessment made by the assessor and shall determine the same.

"They shall increase or decrease assessments on like property to make all assessments as uniform as may be, or to place a true value on the property assessed; but no increase shall be made without notice to the persons whose property is to be increased, and they may in the assessment of real estate increase or decrease all assessments uniformly by adding or subtracting a percentage of the assessments, which action in increasing or decreasing such assessments uniformly shall be effected by the adoption of a resolution or the making of an order by said board of equalization, which shall bear the signatures of at least two (2) members of said board of equalization, and a notice of such increase need not be given except by publication in the official newspaper of the city.

"Said board shall remain in session as long as the business may require, but not to exceed four weeks, unless the board of commissioners shall for cause stated extend the time of the sitting of said board of equalization. A majority of a quorum may determine any question before it. No change in any assessment may be made by erasure, but there shall be appropriate columns for all changes and additions, and the same shall be made in a different colored ink from that which the assessor has used.

"When said board shall have completed its labors it shall prepare a statement of the gross assessments of real property and the gross assesments of personal property, and the sum thereof, and also showing the increase or decrease, if any, in the total assessment made by them, under their signatures, which they shall return to the commissioner of

public finance or city treasurer with all the assessment books, plats and papers received from him, taking his receipt for the same, and which shall be transmitted to the board of commissioners forthwith.

"But it is further provided, that in any instance where the assessment of any property is increased by the board of equalization as herein authorized, except the uniform increase of assessments as herein provided, any tax payer feeling himself aggrieved by the action of such board of equalization, may appeal to the circuit court within thirty days after the final adjournment of said board, by filing with the clerk of said court under the hand of the clerk of said board a certified copy of the action of said board. And it shall be the duty of the clerk of such board to furnish, on demand, to any taxpayer whose assessment has been increased by said board as herein provided, such certified copy of the action of said board as may be necessary for such appeal. Said appeal shall be tried by the circuit court without the intervention of a jury, and either party shall have the right to appeal to the court of appeals where the rights may exist as in other civil cases, and under the rules governing appeals in other civil cases. In the trial of such appeals in the circuit court, the burden shall be upon the person appealing to show that his property has been inequitably assessed as compared to other like property in the vicinity thereof. The cost of such appeal shall be adjudged against the unsuccessful party."

§ 2. All acts and parts of acts in conflict herewith are to the extent of such conflict hereby repealed.

By Mr. Perkins.

H. B. 89. AN ACT to amend Section 965, Carroll's Kentucky Statute, 1936 edition, and changing the time of holding court in the Thirty-first Judicial District composed of Floyd

and Knott Counties, and fixing the time therefor, relating to Circuit Court and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 965 of Carroll's Kentucky Statute, 1936 Edition, be and the same is amended with reference to the Thirty-first Judicial district of Kentucky, and such amendment shall read as follows:

That a Circuit Court shall be held in Floyd County, as follows: At Prestonsburg, Kentucky, beginning on the first Monday in January and continuing twenty-four (24) juridical days; beginning on the first Monday in February and continuing twenty-four (24) juridical days; beginning on the first Monday in April and continuing twenty-four (24) juridical days; beginning on the first Monday in May and continuing twenty-four (24) juridical days; beginning on the first Monday in September and continuing twenty-four (24) juridical days, beginning on the first Monday in October and continuing twenty-four (24) juridical days.

That a Circuit Court shall be held in Knott County, as follows: At Hindman, Kentucky, beginning on the first Monday in March and continuing twenty-four (24) juridical days; beginning on the second Monday in July and continuing eighteen (18) juridical days; beginning on the second Monday in November and continuing twenty-four (24) juridical days.

§ 2. Owing to the congested condition of the dockets in said Thirty-first Judicial District, and the inconvenience in connection with the holding of court in said district, as same are now fixed, an emergency is hereby declared to exist and this act shall become effective upon its passage and approval by the Governor.

§ 3. All Acts and parts of Acts in conflict herewith are repealed.

By Mr. Milam.

H. B. 90. An Act relating to weights, measures and public weighing.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Standards of weights and measures.* (1) The weights, measures and balances previously received from the United States and such new weights, measures and balances as are received from the United States as standards of weights and measures in addition thereto, or in renewal thereof, and such as are supplied by the Department of Agriculture, Labor and Statistics in conformity therewith and certified to by the National Bureau of Standards, shall be the state standards of weights and measures.

(2) The Department of Agriculture, Labor and Statistics shall take charge and keep a record of the state standards, cause them to be kept in a fireproof building belonging to the state, from which they shall not be removed except for repairs or for certification, and take all other necessary precautions for their safekeeping.

(3) The Department shall furnish duplicates of the state standards to any county or city requesting them at cost.

(4) The Department shall maintain the standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification.

§ 2. *False weights and measures prohibited.* No person shall use in the buying or selling of any substance, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, or sell or offer for sale, or have in his possession for the pur-

pose of selling, any false weight or measure or weighing or measuring device or appurtenance, or any device or instrument to be used or calculated to falsify any weight or measure.

§ 3. *Short weight prohibited.* No person shall sell, or offer or expose for sale, or keep for the purpose of sale, a lesser or more quantity of any commodity than he represents such quantity to be, or shall take or attempt to take more or less than the quantity he represents when, as a buyer or seller he furnishes the weight, measure, or weighing or measuring device by means of which the amount of commodity is determined.

§ 4. *Department of Agriculture, Labor and Statistics to administer Act.* (1) The Department of Agriculture, Labor and Statistics shall administer this Act and shall have and keep a general supervision of weights and measures and weighing and measuring devices offered for sale, sold, or used in this state.

(2) The Department shall promulgate such regulations as are necessary to make this Act effective.

(3) The Commissioner of Agriculture, Labor and Statistics shall employ such inspectors and other employees as are necessary and fix and regulate their duties and compensation.

(4) The Department shall, upon the written request of any person, test, or calibrate weights, measures and weighing or measuring devices used as standards in this state.

§ 5. *Inspection of weights and measures.* (1) The Department and its inspectors shall, as often as they deem necessary, inspect, test, try and ascertain if they are correct, all weights, measures and weighing and measuring devices or appurtenances kept, offered or exposed for sale, sold or used in this state by any person in determining the size, quantity, extent, area or measurement of any substance offered for

distribution, consumption, transportation, sale, barter, exchange, hire or award.

(2) The Department and its inspectors shall, from time to time, weigh or measure and inspect sizes or amounts of commodities kept, offered, or exposed for sale, or in the process of delivery, in order to determine whether they contain the amounts represented and whether they are offered for sale or sold in a manner in accordance with law.

(3) The Department and its inspectors shall have the right of access to any place necessary to be entered in enforcing this Act.

(4) If, upon inspection, the weight or measure inspected is found to correspond with the state standards and with the regulations issued by the Department, the inspector shall seal or mark it with appropriate devices to be approved by the Department.

§ 6. *Fees.* (1) The Department shall collect from the owner of the weight or measure, at the time of inspection, a fee based upon the type of weight or measure inspected as follows:

(a) For each scale or measure capable of, and customarily used in, weighing five hundred pounds or over or measuring five hundred gallons or over, Three Dollars.

(b) For each scale or measure capable of, and customarily used in, weighing three hundred pounds or over, or measuring three hundred gallons or over, Two Dollars.

(c) For each scale or measure capable of, and customarily used in, weighing less than three hundred pounds, or measuring less than three hundred gallons, Fifty Cents.

(d) For each device customarily used as a container in the weighing or in connection with the weighing of any commodity and the weight of which is deducted in determining the weight of the commodity, Twenty Cents.

(2) Not more than one inspection fee shall be charged for the same weight or measure during the same calendar

year, except for a second inspection to determine whether a weight or measure found incorrect on a previous inspection has been repaired and corrected, or for a second inspection on which the weight or measure is found to be incorrect.

(3) All fees collected under this Act shall be placed in the State Treasury to the credit of a revolving fund for the use of the Department of Agriculture, Labor and Statistics.

§ 7. *Incorrect weights and measures to be sealed, condemned or destroyed.* The inspectors of the Department shall condemn, seize, and may destroy incorrect weights and measures or weighing and measuring devices or appurtenances, that in their judgment are not susceptible of satisfactory repair. Those that are incorrect but may be repaired shall be marked as condemned for repairs, in a manner prescribed by the Department. The owner or user of any weight, measure, or weighing or measuring device or appurtenance so marked shall have it repaired and corrected within ten days, and shall not use or dispose of it, but shall hold it pending a second inspection. If it is not repaired within the ten day period it shall be confiscated by the inspector.

§ 8. *Police power of inspectors.* The inspectors of the Department shall have the powers of peace officers in making arrests, and may arrest without warrant any person violating this Act, and may without warrant seize for use as evidence any false or incorrect weight, measure, or weighing or measuring device or appurtenance found to be used, retained, offered or exposed for sale, or sold, in violation of this Act.

§ 9. *Right of cities as to weights and measures.* (1) This Act does not prohibit cities from enforcing ordinances regulating weights and measures, heretofore or hereafter enacted, not in conflict with this Act or the regulations of the Department, nor from employing city sealers of weights and measures.

(2) All weight and measure standards used by cities

shall be in exact conformity to the state standards, and shall be submitted to the Department for trial and approval once every five years. The Department shall compare the city standards with the state standards and shall seal them when tried and proved to be in conformity to the state standards.

§ 10. *Independent livestock weighmen.* (1) The weighing of all livestock at any stockyard or market place shall be done by weighers employed by, and under regulations and supervision of the Department of Agriculture, Labor and Statistics. The terms and conditions of employment shall be fixed by the Department.

(2) The Department shall fix a headage charge for each species of livestock, not exceeding two cents per animal. The proprietor of every stockyard or market place shall pay the headage charge for each animal weighed, and at the end of each month shall pay the same into the State Treasury. The sums so received shall be credited to a revolving fund to be used solely to defray the expense of livestock weighing sources.

(3) The proprietor of every stockyard or market place shall report monthly to the Department, on forms provided by the Department, all livestock passing through the stockyard or market place, showing the number of head by species.

§ 11. *Mine Scales.* This Act does not apply to mine scales inspected by the Department of Mines and Minerals under the provisions of Sections 2739-46 to 2739-48.

§ 12. *Milk and cream testing.* This Act does not apply to Babcock test bottles, pipettes, weights and scales inspected by the Kentucky Agricultural Experiment Station under the provisions of Sections 1905a-46 to 1905a-59.

§ 13. *Penalties.* (1) Any person who violates Section 2 of this Act more than once, or who violates Section 3 of this Act, or who in any way impersonates, hinders or obstructs the Department or its inspectors in the perform-

ance of their official duties, or who disposes of any condemned weight, measure, or weighing or measuring device contrary to this Act, or removes the mark placed thereon by the inspector, or who violates any regulation of the Department, or who refuses to pay the lawful inspection fee shall be fined not less than twenty-five dollars nor more than two hundred dollars, or imprisoned in the county jail for not more than three months, or both.

(2) Any person who violates Section 10 of this Act, and any weigher employed by the Department who falsely weighs any livestock, shall be fined not less than five hundred dollars nor more than one thousand dollars.

§ 14. Sections 2196, 2198, 4815 and 4816 of Carroll's Kentucky Statutes, 1936 Edition, are repealed.

§ 15. Since the citizens of the Commonwealth are now suffering loss through the use of incorrect weights and measures, and through the incorrect weighing of livestock, which loss amounts to a substantial sum each day, and which loss will continue unless effective means are provided to regulate weights, measures and public weighing, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

By Mr. Lyon.

H. B. 91. AN ACT to provide for the selection, acquisition of copyrights, printing, publication and distribution of basal textbooks in the elementary schools, high schools and state-supported institutions of higher learning.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4421a-36 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) There is created a State Textbook Commission to consist of eight members appointed by the State Board of Education, and the Superintendent of Public Instruction, who shall be ex officio member and secretary of the Commission. No member of the Department of Education shall be appointed a member of the Commission. The appointive members shall be educators of high qualifications who are actually engaged in educational work in the state and whose educational qualifications shall be not less than graduation from a standard senior college.

(2) On the expiration of the respective terms of the members of the present State Textbook Commission, two of which terms will expire on June 30, 1940, two on June 30, 1941, two on June 30, 1942 and two on June 30, 1943, new members shall be appointed for a term of four years and

(3) The members of the State Textbook Commission shall annually select one of their members as Chairman and shall adopt rules and regulations for the procedure of the Commission.

§ 2. The State Textbook Commission shall, as soon as practicable after this Act takes effect, print, publish or provide for the publication of a complete series of basal school textbooks for use in county and independent elementary schools, high schools and in the state-supported institutions of higher learning, but not in private or parochial schools. The Commission may write, select, compile, or cause to be written or compiled, or purchase the copyright, or contract for the right to publish all such books by the payment of an agreed royalty.

§ 3. The Commission shall make regulations for the submission of texts or manuscripts from which shall be selected at least three acceptable texts and manuscripts for each subject and grade. The Commission shall secure sealed offers from the owners of copyrights of the texts or manuscripts in each list for the right to purchase the copyright

or publish the book on a royalty basis and shall accept the offer that will enable each book to be published at the lowest price. Upon thus receiving the right to publish the Commission shall advertise for bids for the printing of the books and shall let the printing contract to the lowest responsible bidder. The Commission may ask for separate bids for each book to be printed or on the entire group and shall let the contract in separate units, or as a whole, whichever will result in the lowest cost. The Commission may require bond, in an amount determined by it, to insure faithful performance of the printing contracts.

§ 4. Any person owning the copyright or the right to publish a text or manuscript and desiring to submit it for adoption by the Commission shall, before such text or manuscript may be lawfully adopted by the Commission, comply with the following conditions:

(1) If the text or manuscript offered for adoption has been published and is being sold, or has been sold, at any place in the United States, the person offering it shall file with the Commission a sworn statement giving the lowest net wholesale price and the lowest net retail price at which it has been, or is being, sold in any place in the United States.

(2) A fee of five dollars shall be paid by the owner for each text or manuscript offered for adoption. The fees thus received shall be placed in the State Treasury to the credit of a revolving fund to be used to defray the expenses of the Commission in administering this Act.

§ 5. The Commission shall make no contract for the acquisition of the right to publish or for the printing of any textbook that will make the ultimate cost of the book higher than the lowest price at which the book is sold for use in any place in the United States.

§ 6. If the Commission can obtain the right to publish any acceptable text or manuscript without cost it shall adopt such text or manuscript in preference to any other.

§ 7. The books when printed and published shall be sold at a price to be fixed by the Commission in a sum not to exceed the cost of printing, publication and distribution.

§ 8. (1) The superintendent of each school district, including independent districts, and a person designated by the governing board of each of the state-supported institutions of higher learning shall act as agents for the distribution of the basal textbooks.

(2) Each superintendent and each distribution agent shall execute a bond to the Commonwealth in a sum sufficient to cover the cost of all books that may come into his hands under this Act, said sum to be determined by the State Board of Education. The bond shall be executed by a surety company authorized to do business in the Commonwealth and each bond shall be approved by the State Board of Education. The premium on the bond of the superintendent shall be paid by the Board of Education of each school district. The premium on the bond of the distribution agent of the state-supported institutions of higher learning shall be paid by the governing board of each institution from funds appropriated to them by the General Assembly.

(3) Each superintendent and each agent so designated shall execute receipt for, and be charged with the sale price of, all books received by him under this Act. He shall promptly remit to the director of Textbooks in State Department of Education all sums received from the sale of the books.

(4) Every six months each superintendent or distribution agent shall report to the Director of Textbooks, on blanks to be prescribed by the Director, the number of books remaining in his hands and shall, if required by the Director, return them or any portion of them to the Director, or send them to another district in this Commonwealth under rules and regulations prescribed by the Director.

(5) At the expiration of the term of the superintendent or agent he shall make a settlement with the Director of Text-

books, accounting for all books received by him and for moneys received from the sale thereof, and shall turn over to the Director all unsold copies remaining in his hands.

§ 9. When the State Textbook Commission has caused the books to be printed they shall be placed in the custody of a Director of Textbooks to be appointed by the State Board of Education. The Director shall execute bond to the Commonwealth with a corporate surety authorized to do business in the Commonwealth in a sum sufficient to cover the cost of all books placed in his custody, said sum to be fixed and the bond to the approved, by the State Board of Education. The premium on the bond shall be paid by the State Board of Education from funds appropriated to it by the General Assembly.

§ 10. (1) The Director of Textbooks shall be charged with the safe keeping and distribution of the textbooks and shall make rules and regulations governing the method of distribution.

(2) Each superintendent or distribution agent shall file a requisition with the Director of Textbooks, on forms prescribed by him, for all books needed for the next ensuing school term, at least one hundred and twenty days before the beginning of school in the district or in the institution of which he is agent.

§ 11. All sums received from the sale of books under this Act shall be placed in the State Treasury to the credit of a revolving fund to be used solely for the purpose of providing the basal textbooks contemplated by this Act.

§ 12. All sums appropriated by the General Assembly for the purchase of textbooks as provided in Chapter 48 of the Acts of 1928 are hereby appropriated to the State Textbook Commission to be used for the purchase of the right to publish and for the printing, publication and distribution of the basal textbooks contemplated by this Act.

§ 13. If the funds appropriated to the State Textbook Commission are not sufficient to enable the Commission to provide basal textbooks in all subjects and grades, the Commission shall first provide books for the elementary grades commencing with the first grade and carrying through the eighth grade, then for the high schools and state-supported institutions of higher learning respectively. For those grades and subjects for which there is not sufficient money to provide books under this Act, the books previously adopted by the State Textbook Commission shall be continued in use until books can be provided under this Act.

§ 14. The books purchased by the state and used throughout the state under the provisions of Chapter 48 of the Acts of 1928 shall continue to be used by the various districts throughout the state until a sufficient number have become in an unusable condition to require replacement. All replacements and new copies required shall be provided under the provisions of this Act.

§ 15. The State Textbook Commission shall commence the performance of the duties imposed upon it by this Act as soon as practicable after this Act takes effect and shall have available for distribution all textbooks for which there are available funds by June 30, 1941. No textbook adopted, printed and published under the provisions of this Act shall be changed for a period of five years after its adoption. All books adopted before this Act takes effect shall continue in use until June 30, 1941, and shall not be used thereafter except as provided in section 13 of this Act.

§ 16. Any appropriation hereafter made by the General Assembly for the purchase of free textbooks shall be used by the State Board of Education for that purpose, but the books shall be purchased from those provided by the State Textbook Commission under the provisions of this Act.

§ 17. The purchase and distribution of free textbooks

shall be under the management of the Director of Textbooks, subject to the approval of the State Board of Education.

§ 18. The State Board of Education may adopt such rules and regulations for the distribution of free textbooks as it deems necessary. In the distribution of free textbooks the Board shall begin with the first grade and shall furnish textbooks to the first grade before any are furnished to the second grade. After books have been furnished to the first grade, if additional funds are available the Board shall furnish books to the second grade, and so on each year until the fund is exhausted. If sufficient funds are not available to furnish all the textbooks to any grade, the Board may determine for what subject or subjects in that particular grade free textbooks shall be provided.

§ 19. Upon sending textbooks to each superintendent or distribution agent the Director of Textbooks shall designate which books are to be distributed as free textbooks, and which are to be sold. Specific rules as to the requisition, distribution, care and use of free textbooks, and for the disposal of such textbooks as are no longer in fit condition for use for purposes of instruction, shall be made by the Director, subject to the approval of the State Board of Education.

§ 20. All free textbooks shall be and remain the property of the state and shall be permenently labeled as the property of the state according to a plan adopted by the Director of Textbooks and approved by the State Board of Education. Each pupil and his parent or guardian shall be responsible to the state for all books not returned by the pupil, and any pupil not returning all free books delivered to him shall not be entitled to any further free books until the books delivered to him have been paid for by the parent or guardian or accounted for in accordance with the regulations made by the Director. No textbook issued to a white child shall be reissued to a colored child, and no textbook issued to a colored child shall be reissued to a white child.

§ 21. After June 30, 1941, no textbooks shall be used in any grade or subject in any elementary or high school, or any state-supported institution of higher learning, as a basal textbook, other than the basal textbooks provided under this Act, except in those grades or subjects for which books have not been provided under this Act.

§ 22. Sections 4421a-37 to 4421d-1 inclusive, of Carroll's Kentucky Statutes, 1936 edition, are repealed.

By Mr. White.

H. B. 92. AN ACT providing for the election of County School Superintendents; fixing his qualifications, compensation, and term of office; prescribing his duties; providing for the appointment of Assistant Superintendents; Assistants and Clerks of the Superintendent, and repealing Sections 4399-34 and 4399-10a of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

At the regular November election to be held on the first Tuesday after the first Monday in November, 1941, and every four years thereafter there shall be elected in each County in this State a County Superintendent of Public Schools, who shall assume office on the first Monday in January, 1942, and hold said office for a period of four years, and until his successor has been elected and qualified.

No person shall be eligible for the office of Superintendent of County Schools who does not at the time of his election hold a statement signed by the Superintendent of Public Instruction that he has been duly issued a certificate of scholarship, administration and supervision issued in accordance with the provisions of law, and which qualifies him to hold the position to which he may be elected, and he shall

hold such certificate throughout the period of his employment, nor shall he be eligible to such office unless, at the time of his election, he be not less than twenty-four years of age, and shall have been a resident of this State not less than one year.

All elections for Superintendents shall be by secret ballot. Said ballot shall be on a separate sheet from all other ballots to be used in any election, except members of the board of Education. It shall be the duty of the County Clerk to cause to be printed on said ballot the names of all candidates for Superintendent, in whose behalf he may be petitioned so to do in writing by not less than 400 legal voters of the county in which the candidates live. The petition must be filed in the office of the County Clerk not more than 120 days and not less than 30 days before the day of election and each petition must be signed by the requisite number of qualified voters of said county and shall show the place of residence of each person signing it and no person shall sign more than one petition.

Voters in Independent Graded School Districts which are maintained separately and distinct from the common schools of the county, whether such Independent Graded Schools Districts be embraced in whole or in part in any city of any class, or otherwise, shall not be eligible to vote in the election of such County School Superintendent.

A Superintendent of Schools may be removed by a vote four members of the County Board of Education for cause, provided that written notice setting out the charges for removal must be spread on the Minutes of the Board, and given the Superintendents fifteen (15) days before action is taken on his removal.

The Superintendent shall be the executive agent of the County Board of Education, and shall meet with the Board except when the administration of his office is under consideration.

His compensation shall be determined by the Fiscal Court of the County, to be paid from County School funds in equal monthly installments, but it shall not be less than $1,200.00 per year.

Said Superintendent shall see that the laws relating to the schools, the by-laws, rules and regulations of the State Board of Education, and the regulation and policies of the district board of Education are carried into effect. He shall be the professional advisor of the Board in all matters, and under the direction of the Board, shall prepare all rules, regulations, by-laws and statements of policy, specific and general for the Board for its approval and adoption. The Superintendent of Schools shall have general supervision, subject to control of the Board of Education, of the general conduct of the schools, the course of instruction, the management of teachers, the discipline of pupils, and the management of the business affairs of said County Board of Education.

The Board of Education may, on the nomination of the superintendent of schools, appoint as many assistant superintendents as it deems necessary, whose compensation shall be fixed by the board and who may be removed for cause by the superintendent, with the approval of three members of the board of education. Except as provided under Section 4399-7 to 4399-11 inclusive, Carroll's Kentucky Statutes, 1936 Edition, all appointments, promotions, transfers and dismissals of principals, supervisors, teachers, and other public school employees shall be made only upon the recommendation of the superintendent of schools, subject to the approval of the board; provided that the supervisors, principals, and teachers shall not be employed for a period longer than one year. In the event the Board of education cannot agree with the superintendent as to the appointment of any certificated person recommended by such superintendent, such board of education may appeal to the State Board of Education, to review the case and the decision of the State Board of Educa-

tion shall be final. The Superintendent shall have the power to suspend any teacher or other employee for cause deemed by him sufficient, and the board of education shall take such action upon the restoration or removal of such person as it may deem proper. All employees of the board shall have such qualifications as may be prescribed by law and by the regulations of the State Board of Education and/or of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the Board of Education, for any school year at any time after the first day of April next preceding the beginning of the school year.

The superintendent of schools shall devote himself exclusively to his duties and shall have power to appoint necessary clerks, whose number and salaries shall be determined by the Board and he shall have the power to remove same. He shall exercise general supervision of the schools of his district, examine their condition and progress and shall keep himself informed of the progress in other districts. He shall prepare or have prepared all budgets, salary schedules, and other reports required of his board by the State Board of Education. He shall advise himself of the need of extension of the school system of the district, shall receive and examine reports from teachers and other school officers, and shall make reports from time to time as may be required by the rules of his Board or as he may be directed to do by the board, and he shall be responsible to the board for the general conditions of the schools.

Any outgoing superintendent shall make all reports required by law to date of his retirement and shall have information assembled to date of his retirement for any other reports to be made by the incoming superintendent before the last month's salary of the outgoing superintendent is paid. Failure to comply with the provisions of this section shall be grounds for the revocation of the superintendent's certificate. Any superintendent who is guilty of a violation of this section

shall be fined not less than one hundred ($100.00) dollars nor more than one thousand ($1,000.00) dollars for each offense.

Section 4399-34 and 4399-10a of Carroll's Kentucky Statutes, 1936 edition, are hereby repealed.

By Mr. Chapman.

H. B. 93. AN ACT to repeal, amend and re-enact Sections 3049, 3118, 3119, 3126, 3131, 3133, 3143, 3144, 3144a and 3166 of the Kentucky Statutes, (Carroll's 1936 edition) all of which sections are a part of the charter of municipalities of the second class relating to the councilmanic form of government; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3049, Kentucky Statutes, (Carroll's 1936 Edition), be and the same hereby is repealed, amended and re-enacted so that when said section is amended and re-enacted the same shall read as follows, to-wit:

Vacancies in all offices shall be filled by appointment by the mayor. Vacancies in offices elective by popular vote shall be filled by appointment by the mayor for the remainder of the term, except that a vacancy in the office of mayor shall be filled by appointment by the governor; Provided, that the unexpired term will end at the next succeeding annual election at which either city, town, county, district or state officers are to be elected. If the unexpired term will not end at the next succeeding annual election, at which either city, town, county, district or state officers are to be elected, and if three months intervene before said succeeding annual election, the office shall be filled as aforesaid until said election, and then said vacancy shall be filled by election for the remainder of the term. If three months do not intervene between the happening of said vacancy and the next

succeeding election, at which city, town, county, district or state officers are to be elected, the office shall be filled by appointment by the mayor until the second succeeding annual election, at which city, town, district, or state officers are to be elected; and then, if any part of the term remains unexpired, the office shall be filled by election until the regular term for the election of officers to fill said offices. All officers, agents and employees of the city, in any of its departments, not required by Act of the General Assembly to be otherwise elected or appointed, shall be appointed by the mayor, and serve at his pleasure.

§ 2. That Section 3118, Kentucky Statutes, (Carroll's 1936 Edition), be repealed, amended and re-enacted so that said section when amended and re-enacted shall read as follows, to-wit:

Section 3118. The Mayor shall appoint a Superintendent of Public Works, who shall serve at the pleasure of the Mayor. It shall be the duty of the General Council to fix his salary at not less than Three Thousand Dollars ($3,000.00) per annum. The Superintendent of Public Works shall make all appointments of employees in the Department of Public Works, who shall serve at the pleasure of the Superintendent, but he shall not undertake any improvements or perform any work, or make any appointments or employments, until said work and improvements shall have been authorized by ordinance, and until the number and compensation of appointees and employees shall have been fixed by ordinance, and the city shall not be held to any liability incurred by said Superintendent in violation of this provision.

§ 3. That Section 3119, Kentucky Statutes, (Carroll's 1936 Edition), be repealed, amended and re-enacted so that said section when amended and re-enacted shall read as follows, to-wit:

Section 3119. Said Superintendent of Public Works shall have control of the operation of all of the public works

and public buildings of the city, and shall have control over the construction, reconstruction, cleaning, repairing, grading, improving, maintenance, sprinkling, lighting, and using of all streets, alleys, avenues, lanes, market houses, bridges, sewers, drains, wells, cisterns, ditches, culverts, canals, streams, and water courses, sidewalks, curbs, and gutters in the city, and shall have charge of the lighting of public places and buildings, and such other matters as may be provided by act of the General Assembly not inconsistent herewith, or by ordinance of the General Council consistent with the duties herein enumerated. He shall have charge of issuing of permits for all connections to be made with gas or water mains, or public or private sewers.

§ 4. That Section 3126, Kentucky Statutes, (Carroll's 1936 Edition,) be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3126. The mayor shall, on or before July 1st succeeding his election, appoint an auditor, who shall serve at the pleasure of the mayor.

§ 5. That Section 3131, Kentucky Statutes, (Carroll's 1936 Edition) be and the same is hereby repealed, amended and re-enacted so that when said section is amended and re-enacted the same shall read as follows, to-wit:

Section 3131. There shall be a City Treasurer elected by the qualified voters of the city, who shall receive such salary as shall be fixed by the General Council; provided, however, that said salary shall be fixed at not less than Three Thousand Dollars ($3,000.00) per annum. No person shall be eligible to the office of City Treasurer who has not attained the age of twenty-five (25) years at the time of his election. He shall have the authority to appoint a deputy, and to require said deputy to furnish bond as he deems necessary. It shall be the duty of the General Council to fix the salary of said deputy at not less than Twelve Hundred Dollars

($1,200.00) per annum. Said deputy shall perform such duties in the Treasurer's office as shall be prescribed by the Treasurer, and shall serve at the will of the Treasurer.

§ 6. That Section 3133, Kentucky Statutes, (Carroll's 1936 Edition) be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3133. The Mayor shall appoint a City Clerk, who shall serve at the pleasure of the Mayor, and whose salary shall be fixed by the General Council at not less than Twenty-One Hundred Dollars ($2,100.00) per annum. It shall be the duty of the City Clerk, in person or by deputy, to attend all meetings of the General Council, both in joint and separate sessions, and to keep a true record, properly indexed, of its proceedings; to promptly and without delay present to the Mayor for his consideration and action all ordinances, resolutions, and by-laws passed by the General Council, taking the receipt of the Mayor therefor, showing the date of delivery to the Mayor, and he shall note of record the action of the Mayor thereon. The Clerk shall keep the seal of the city, and affix the same when required by law. He shall have the authority to appoint a deputy, who shall serve at the pleasure of the Clerk. It shall be the duty of the General Council to fix said deputy's salary at not less than Twelve Hundred Dollars ($1,200.00) per year. Said deputy shall perform such duties as may be prescribed by the City Clerk.

§ 7. Section 3143, Kentucky Statutes, (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3143. In such cities of the second class as now own a water works system there shall be a board to be styled "Commissioners of Water-works," to be composed of three members appointed by the Mayor. They shall have the

qualifications required for aldermen, their terms of office shall be three years and until their successors are appointed and qualified, except that the members first appointed under this act shall be appointed for one, two, and three years respectively, and thereafter one member shall be appointed each year for a term of three years. The first appointment of said commissioners shall be made in May, one thousand eight hundred and ninety-four. Said commissioners shall give bond for the faithful performance of their duties in the sum of five thousand dollars ($5,000.00), and they shall be paid such compensation as the general council may fix, not exceeding twelve hundred dollars ($1,200.00) per annum, nor less than three hundred dollars ($300.00) each per annum. Said commissioners shall control and manage the water-works and water system of the city; they may appoint and remove a superintendent, secretary, and other necessary employees and allow them such compensation as the general council may approve. They shall make full monthly reports to the general council of the operation and condition of the water-works, or water system of the city, including all receipts, expenditures, repairs and work connected therewith. The city treasurer shall be ex-officio treasurer of said board, two members of said board shall constitute a quorum for the transaction of all business of the board.

§ 8. That Section 3144, Kentucky Statutes, (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3144. The mayor shall appoint a city engineer who shall serve at the pleasure of the mayor and whose salary shall be fixed by the General Council at not less than Eighteen Hundred Dollars ($1,800.00) per annum. He shall be not less than twenty-five (25) years of age and an elector of the city. His duties shall be such as the general council may prescribe by ordinance.

§ 9. Section 3144a, Kentucky Statutes, (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3144a. It shall be the duty of the City Engineer to supervise all engineering work which is done by, for, or on account of the city, and he shall recommend to the General Council the employment of such skilled or common labor, and the purchase of such material, as he may deem necessary to the performance of his duties. All public work, and the materials used in such work, shall be inspected by him, and he shall certify his approval of the same before any payment is made upon any contract for public work. He shall have the authority to appoint an assistant, who shall serve at his will, and it shall be the duty of the assistant to keep a record of all transfers of real estate on a block map to be kept by the city, and to render such assistance to the City Engineer as may be prescribed by said City Engineer. It shall be the duty of the General Council to fix the salary of the City Engineer at not less than Eighteen Hundred Dollars ($1,800.00) per annum; and it shall be the duty of the General Council to fix the salary of the assistant at not less than Twelve Hundred Dollars ($1,200.00) per annum.

§ 10. That Section 3166, Kentucky Statutes, (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3166. The Mayor shall appoint a City Solicitor, who shall be a regularly admitted and practicing attorney at law. He shall, in person or by his assistant, or by the City Attorney, appear for the city and attend to all cases in the circuit court and Court of Appeals wherein the city may be a party complainant or defendant, or a party in interest; he shall give advice to any and all city officials, and to the General Council, and shall attend in person or by his as-

sistant, or by the City Attorney, the meetings of both boards of the General Council, or of any committee thereof, when requested, and shall supervise the preparation of all ordinances of the General Council, and all contracts to which the city may be a part, and shall attend to such other legal business as may be prescribed by the Mayor or by ordinance of the General Council. He shall have the authority to appoint an assistant in addition to the City Attorney, which assistant shall perform such duties as the City Solicitor may prescribe. The City Solicitor shall have the authority to appoint a stenographer, who shall perform such duties as he shall prescribe. It shall be the duty of the General Council to fix the salary of the City Solicitor at not less than Three Thousand Dollars ($3,000.00) per annum, and the salary of the Assistant City Solicitor at not less than Eighteen Hundred Dollars ($1,800.00) per annum, and the salary of the stenographer to the City Solicitor at not less than Twelve Hundred Dollars ($1,200.00) per annum.

In addition to the legal duties for the city required of him under this act, the City Solicitor may engage in the private practice of law and receive compensation therefor, provided he shall not accept private legal employment which is inconsistent with the interests of the city.

§ 11. It is the deliberate intention of the General Assembly to enact each section of this bill separate and if any section thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections contained herein.

Whereas, a controversy has arisen concerning the power of appointment of many of the employees of the cities of the second class operating under the Councilmanic form of government, and

Whereas, in at least one of the cities of the second class operating under the Councilmatic form of government, the Mayor and Board of Aldermen are unable to agree upon

appointments and by reason of these facts, necessary governmental functions of said city have been retarded and are now being retarded, and the welfare of the public is thus affected.

An Emergency is hereby declared to exist and this act shall become affective immediately upon its passage and approval by the Governor.

By Mr. Walters.

H. B. 94. An Act amending section 744, Kentucky Statutes, Baldwin's 1936 edition, relating to safety appliances at public railroad crossings.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 774, Baldwin's 1936 edition of the Kentucky Statutes be and the same is hereby repealed and re-enacted so as re-enacted said law shall read as follows:

"Whenever, in the opinion of the Railroad Commission, the public interest requires that a gate or some equally effective appliance be erected or maintained, or a flagman stationed, at any crossing of this Commonwealth, the Commission shall give the superintendent or manager of the railroad written notice that the same is required, and the company shall within the time prescribed by the Commission, erect and maintain at such crossing the character of safety appliance directed by the Commission, and keep a man in charge of the same during such hours as the Commission may designate, or keep a flagman at such crossing during such hours as the Commission may require. And the Commission may authorize the discontinuance of such gate, other safety appliance or flagman whenever, in their judgment, the public interest no longer requires the same.

By Mr. Ernst.

H. B. 95. An Act to change the time of holding the terms of circuit court in the thirty-seventh Judicial district.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the time of holding terms of the Circuit Court in the Thirty-Seventh Judicial District shall be and are hereby fixed as follows, to-wit:

Carter County, at Grayson, on the Third Monday of February, and continue for twelve juridical days; second Monday of April, and continue for twelve juridical days; second Monday of June, and continue twelve juridical days; fourth Monday of August, and continue for twelve juridical days; third Monday of October and continue twelve juridical days; fourth Monday of November and continue twelve juridical days.

Elliott County, at Sandy Hook, on the second Monday of March and continue twelve juridical days; third Monday of July and continue for twelve juridical days; first Monday of October and continue for twelve juridical days.

Morgan County, at West Liberty, on the fourth Monday of March and continue twelve juridical days; second Monday of August and continue twelve juridical days; second Monday of November and continue twelve juridical days.

§ 2. In order that no term of court as now fixed by law be interfered with while court is in session and so that it may be known in advance when said Act shall be in effect, it is provided that this Act shall be in effect on and after the first day of May, 1940.

§ 3. All laws and parts of laws in conflict herewith are hereby repealed.

By Mr. Bosworth.

H. B. 96. AN ACT providing that the registration books of voters in voting precincts within a city of the third class which is not the county seat of the county within which it is situated shall be taken to the courthouse or city hall of such third class city by the clerk of the county court of such county, or by his deputy clerk, between the fifteenth day of August and the tenth day of October, and between the fifteenth day of November and the tenth day of July of any year; and permitting all unregistered persons possessing the qualifications for registration as a legal voter of any voting precinct in such third class city, and all registered voters who have changed their place of residence from one voting precinct to one or a different voting precinct in such third class city, and all registered voters of any precinct in such third class city desiring to change their party affiliations, to register, or to change their registration, or to change their party affiliation, as the case may be, upon request therefor by appearing before said clerk or deputy clerk at the courthouse or city hall of such third class city between said dates, instead of at the office of said clerk at the county seat.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4 of Chapter 45 of the "General Registration Act", of the 1936 Acts of the General Assembly, same being Section 1486bb-4 of the Kentucky Statutes, Carroll's 1936 Edition, be and the same is hereby amended and re-enacted by adding thereto the following provisions and language, to-wit:

"Provided, however, that in counties containing a city of the third class which is not the county seat of the county within which it is situated, the clerk of the county court of such county, or his deputy clerk, shall take the registration

book of voters for each voting precinct within such city to the courthouse or city hall of such city and keep same there between the fifteenth day of August and the tenth day of October and between the fifteenth day of November and the tenth day of July of any year. Any person possessing the qualifications for registration as a legal voter of any voting precinct within such city, and who has failed to register, may appear before said clerk or deputy clerk between said dates of any year (Sundays and legal holidays excepted) at the office or place in the courthouse or city hall of said city where said registration books are taken, at any hour of the day such office or place is open for business, and upon the request of such voter the said clerk shall properly register such voter. Any registered voter of any voting precinct within such city who wishes to change his party affiliation, may appear before said clerk or deputy clerk between said dates of any year, and upon his request, the clerk or deputy clerk shall make said change on the registration book."

So that said section of said chapter of said Act of 1936, after same is hereby amended and re-enacted, shall read and provide as follows, to-wit:

"Any person possessing the qualifications for registration as a legal voter as set out in Section two (2) hereof (Act of 1936), and who fails to register on such primary election date, may appear before the county court clerk of the county of the residence of such voter, between the fifteenth day of August and the tenth day of October, and between the fifteenth day of November and the tenth day of July of any year (Sundays and legal holidays excepted) at any hour of the day the office of the County Court Clerk may be open for business. Any voter who wishes to change his party affiliation may appear before the clerk between said dates of any year, and upon his request, the clerk shall make said change on the registration book.

"Provided, however, that in counties containing a city of the third class which is not the county seat of the county

within which it is situated, the clerk of the county court of such county, or his deputy clerk, shall take the registration book of voters for each voting precinct within such city to the courthouse or city hall of such city and keep same there between the fifteenth day of August and the tenth day of October, and between the fifteenth day of November and the tenth day of July of any year. Any person possessing the qualifications for registration as a legal voter of any voting precinct within such city, and who has failed to register, may appear before said clerk or deputy clerk between said dates of any year (Sundays and legal holidays excepted) at the office or place in the courthouse or city hall of said city where said registration books are taken, at any hour of the day such office or place is open for business, and upon the request of such voter the said clerk or deputy clerk shall properly register such voter. Any registered voter of any voting precinct within such city who wishes to change his party affiliation, may appear before said clerk or deputy clerk between said dates of any year, and upon his request, the Clerk or deputy clerk shall make said change on the registration book."

§ 2. Any Act of the General Assembly in conflict with any of the provisions of this Act are, to the extent of such conflict, hereby repealed.

Ordered that said bills and resolution be printed and referred.

The Speaker announced that he had referred bills and resolutions heretofore introduced in this House, as follows, viz.:

H. B. 2. Judiciary.

H. B. 3. County and City Courts.

H. B. 4. Miscellaneous Affairs.

H. B. 5. Public Health number 1.

H. B. 6. Public Health number 1.

H. B. 7. Constitutional Amendments.

H. B. 8. Social Security.

H. B. 9. Kentucky Statutes 1A.

H. B. 10. Roads and Highways No. 1.

H. B. 11. Social Security.

H. B. 12. County and City Courts.

H. B. 13. Codes and Practice.

H. B. 14. Fish and Game.

H. B. 15. Constitutional Amendment.

H. B. 16. Ky. Statutes No. 1.

H. B. 17. Roads and Highways No. 1.

H. B. 18. Motor Transportation.

H. B. 19. Codes and Practice.

H. B. 20. Codes and Practice.

H. B. 21. Court of Appeals.

H. B. 22. Criminal Law.

H. B. 23. Ky. Statutes No. 1.

H. B. 24. Appropriation No. 1.

H. B. 25. Immigration and Labor.

H. B. 26. Constitutional Amendments.

H. B. 27. Social Security.

H. B. 28. Social Security.

H. B. 29. Ky. Statutes 1A.

H. B. 30. County and City Courts.

H. B. 31. Compensation and Industrial Injuries.

H. B. 32. Education No. 1.

H. B. 33. Circuit Courts.

H. B. 34. Judiciary.

H. B. 35. Revenue and Taxation No. 1.

H. B. 36. Constitutional Amendment.

H. B. 37. Codes and Practice.

H. B. 38. Codes and Practice.

H. B. 39. Fish and Game.

H. B. 40. Cities of the Third Class.

H. B. 41. Cities of the Second Class.

H. B. 42. Fish and Game.

H. B. 43. Sufferage and Election.

H. B. 44. Charities and Penial Institutions.

H. B. 45. Fish and Game.

H. B. 46. Revenue and Taxation No. 1.

H. B. 47. Revenue and Taxation No. 1.

H. B. 48. Fish and Game.

H. B. 49. Fish and Game.

H. B. 50. Circuit Courts.

H. B. 51. Roads and Highways No. 1A.

H. B. 52. Miscellaneous Affairs.

H. B. 53. Education No. 1.

H. B. 54. Agriculture 1A.

H. B. 55. Kentucky Statutes 1A.

H. B. 56. Revenue and Taxation No. 1.

H. B. 57. Kentucky Statutes 1A.

H. B. 58. Railroads.

H. B. 59. Alcoholic Control No. 1.

H. B. 60. Motor Transportation.

H. B. 61. Criminal Law.

H. B. 62. County and City Courts.

H. B. 63. Kentucky Statutes 1A.

H. B. 64. Kentucky Statutes 1A.

H. B. 65. Education No. 1.

H. B. 66. Education No. 1A.

H. B. 67. Social Security.

H. B. 68. Codes and Practice.

H. B. 69. Revenue and Taxation 1A.

H. B. 70. County and City Courts.

H. B. 71. County and City Courts.

H. B. 72. Revenue and Taxation 1A.

H. B. 73. Compensation and Industrial Injuries.

H. B. 74. Roads and Highways No. 1.

H. B. 75. Revenue and Taxation No. 1.

H. B. 76. Codes and Practice.

H. B. 77. Railroads.

H. B. 78. Alcoholic Control 1A.

H. B. 79. Circuit Courts.

H. B. 80. Agriculture No. 1.

H. B. 81. Cities of the First Class.

H. B. 82. Circuit Courts.

H. B. 83. Public Health No. 1.

H. B. 84. Criminal Law.

H. B. 85. Criminal Law.

H. B. 86. Fish and Game.

H. Res. 5. Appropriations No. 1.

H. Res. 6. Claims.

H. Res. 7. Claims.

H. Res. 8. Claims.

H. Res. 9. Claims.

H. Res. 10. Claims.

Mr. Joe Robinson moved that when the House adjourn today, it adjourn out of respect to the memory of the late Honorable J. C. W. Beckham.

Said motion was agreed to.

Mr. Joe Robinson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, JANUARY 12, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	T. P. Fitzpatrick	Davis Moore
J. Everett Bach	Cecil Florence	Joe T. Morgan
H. T. Baker	Wayne Freeman	C. Homer Neikirk
Robert E. Barry	Eugene Gough	Carl D. Perkins
Alvis S. Bennett	Van Y. Greene	B. W. Porter
Rell Bevins	Ralph C. Hamilton	H. O. Porter
Sterling B. Blake	C. L. Hammons	Kleber F. Price
Douglas T. Bolling	T. H. Hickey	Hobart Rayburn
J. F. Bosworth	Clyde S. Howard	Thomas Rigdon
W. S. Brim	Chester Huffines	Joe E. Robinson
C. J. Bronston	John M. Hunnicutt	Lyman Roll
Gus A. Brooks	W. H. Hunt	Jack Savage
Randolph A. Brown	R. L. Jackson	Carl Scheben
Haynes Carman	J. B. Jarboe, Jr.	Leon J. Shaikun
Charles M. Carter	Chas. X. Jones	Ray O. Shehan
James W. Chapman	John S. Juett	Faust Y. Simpson
S. B. Chrisman	William K. King	Bruce Sloan
John Coulter	W. A. Lamkin, Jr.	Otto Smither
John H. Cox	Robert E. Lee	E. T. Sparks
Pink G. Curd	Harvey D. Leonard	G. C. Springate
W. Q. Daniel	Edward Leslie	J. Claude Stacy
F. E. Daugherty	W. Paul Lyon	Ray J. Stengel
Stanley S. Dickson	C. C. May	Henry Stewart
Forest C. Easley	T. B. McConnell	W. St. Clair Stuart
D. E. Edwards	E. Hayes McMakin	T. M. Swope
Harry W. Ennis	Norris McPherson	Otis C. Thomas
R. R. Ernst	Stanley C. Moebus	Erna E. Tyra
Carlos Fallis	John B. Mollette	J. Wood Vance

Walter R. Vansant	Harry F. Walters	Otis White
S. J. Wagner	Henry Ward	James H. Woods
Porter Wallace	H. L. Waterfield	Mr. Speaker

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Mr. Neikirk moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

The following bills and resolutions were introduced, viz.:

By Mr. Leonard.

H. B. 97. AN ACT to provide for the creation of divisions in county school districts and to provide for the election of members of the county board of education from divisions, and amending sections 4399-24, 4399-25 and 4399-26 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4399-24 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4399-24. School board members shall be elected for a term of four years. In independent school districts the members shall be elected from the district at large. *In county school districts one member shall be elected from each division.*

§ 2. A new section of the statutes is created to read and be numbered as follows:

4399-24a. (1) The board of education of each county school district in the state shall as soon as practicable but not later than May 1, 1941, divide their respective county school district into five divisions as nearly equal in population and

containing integral voting precincts in so far as is practicable. When it is made necessary by changes in precinct boundaries, shifts in population, or the creation of independent school districts, the board of education may alter the boundaries of divisions in order to equalize the population of divisions or make them conform to precincts, but no change shall be made in the boundaries of a division within six months prior to the day in which a member of the school board is to be elected from the division. A record of boundaries made for the division shall be kept in the office of the county board of education.

(2) Any citizen in the district may prosecute an appeal from the action of the board in forming the division to the county court and from the county court to the circuit court of the county in which the district is located. The procedure on appeals shall be the same as in other civil cases.

§ 3. Section 4399-25 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4399-25. (1) All elections for members of boards of education shall be by secret ballot. The ballot shall be on a separate sheet from all other ballots used in any election. The county clerk shall cause to be printed on the ballot the names of candidates in whose behalf he is petitioned to do so in writing, by not less than fifty legal voters of the county school district *division or independent school district as the case may be;* provided that in independent school districts embracing cities of the first and second class the number of such petitioners shall not be less than one hundred. The petitions must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons, and shall show the place of residence of each person signing it. *In county school district divisions* no person shall sign more *than one petition, and in*

independent school districts not more petitions than the number of offices to be filled.

(2) The ballot shall be in the form prescribed for ballots by the general election law, except that no party emblems or other emblem or distinguishing mark shall be placed upon the ballot, save the words "School Ballot" at the head thereof; and that the names of all candidates for membership on the board of education shall be printed on the first fifty ballots in a single column in the order the petitions are filed. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last name on the preceding fifty ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots; and such ballots shall be so bound that in the book of ballots for each voting precinct each candidate's name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected *from the district or division as the case may be.*

(3) *In county school districts separate school ballots shall be prepared for each division and shall contain only the names of candidates from the division for which they are prepared. If a precinct lies in more than one division, ballots for each division in which the precinct lies shall be furnished to the precinct. A voter shall be issued a school ballot only of the division of which he is a resident.*

(4) The general election laws shall apply to all school elections. The sheriff of each county in which a school district is situated shall provide for each precinct in the district a separate box for the reception of ballots used in the election of members of the board of education. The judge of election of the opposite political party to the clerk of election in each precinct shall issue the school ballots in the same manner as other ballots are issued by the clerk of election, by writing the

name and residence of the voter upon the primary stub and his registered number, in districts where registration is required by law, upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally.

(5) An election officer or other person within the election booth telling or indicating to a voter the political affiliation of any candidate shall be punished by fine not exceeding two hundred dollars.

(6) The expense of the election shall be paid by the fiscal court out of the general funds of the county in all school districts except those embracing cities of the first five classes; in such case, the expense of the election shall be paid by the city from its general funds.

§ 4. Section 4399-26 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

4399-26. (1) *In independent school districts* each voter may vote for as many candidates as there are members to be elected by making a cross in the square opposite the name of each candidate for whom he wishes to vote, and the ballot shall show the number of board members to be elected. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

(2) *In county school districts each voter shall vote for one candidate only. If a voter votes for a candidate from a division other than the one in which he resides, his ballot shall be void.*

By Mr. H. O. Porter.

H. B. 98. AN ACT repealing and re-enacting Section 1 of Chapter 36 of the Acts of the General Assembly of 1938, and Section 7 of Chapter 106 of the Acts of the General Assembly of 1938, being subsection 2739g-34a and 2739g-34a of

Baldwin's Kentucky Statutes 1938 Supplement, relating to driving a motor vehicle while intoxicated, and prescribing penalty therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1 of Chapter 36 of the Acts of the General Assembly of 1938, and Section 7 of Chapter 106 of the Acts of the General Assembly of 1938, being subsection 2739g-34a and 2739g-34a of Baldwin's Kentucky Statutes, 1938 Supplement, be and the same is hereby repealed and re-enacted, so that said section as repealed and re-enacted shall read as follows:

That it shall be unlawful for any person to operate a motor vehicle, or any other kind of vehicle, upon any of the public highways of this Commonwealth while under the influence of intoxicating liquors, or while in an intoxicated condition, and for each violation of the above provision the person so offending shall be fined for the first offense not less than One Hundred Dollars ($100.) nor more than Five Hundred Dollars ($500.) and for the second and each subsequent offense he shall be fined not less than One Hundred Dollars ($100.) nor more than Five Hundred Dollars ($500.) and confined in the county jail not less than thirty days nor more than six months.

It is further provided that in addition to the aforesaid penalty the driver's license shall be revoked by the Department of Revenue or the Judge of the circuit court of the county where said offense was committed for a period of one year, but that for the first offense, and in the discretion of the Judge of the circuit court, said driver's license may be restored by requiring of said operator that he post a bond with the clerk of the aforesaid county in the sum of Five Hundred Dollars ($500.) with good sureties, to be

forfeited to the Commonwealth of Kentucky in the event said operator is guilty of a second offense within two years time.

By same.

H. B. 99. AN ACT providing that any husband, wife, heir-at-law, beneficiary under a will, or beneficiary under an insurance policy forfeits right to inherit or receive property from person he or she kills and is convicted therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That if the husband, wife, heir-at-law, beneficiary under a will, or the beneficiary under any insurance policy shall have taken the life of the decedent and be convicted therefor of a crime which is a felony, the person so convicted forfeits all interest in and to the property of the decedent, and the property interest so forfeited descends to the decedent's other heirs-at-law.

By Mr. Brown.

H. B. 100. AN ACT defining plumbing, master plumber, journeyman plumber, plumber's apprentice and maintenance man in counties containing cities of the first, second and third class of the commonwealth of Kentucky; providing for examinations and issuing certificates, and providing fees for same, to qualified registered master plumbers and registered journeymen plumbers and placing same under the jurisdiction of the State Board of Health of Kentucky; and also granting to the State Board of Health of Kentucky the power to adopt and promulgate a code, regulating the installation of plumbing, house drainage, sewerage and sewage disposal; designating the kind of materials and fixtures including sup-

ply pipes, waste, ventilation of plumbing systems, soil pipe and sewerage to be used in plumbing and drainage and the methods of their installation, to issue permits and provide fees for same; regulating the installation of plumbing in all public buildings and food establishments throughout the Commonwealth of Kentucky; providing the powers and duties of the State Board of Health in relation to this Act and providing penalties for violation of the provisions of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. DEFINING PLUMBING, MASTER PLUMBER; JOURNEYMAN PLUMBER; PLUMBERS'S APPRENTICE AND MAINTENANCE MAN,—Plumbing is the art of installing in building the pipes for distributing the water supply, the fixtures for using water, and drainage pipes for removing waste water and sewage, together with fittings and appurtances of various kinds all within or adjacent to the building and including also the "service pipe" which forms the connection between the shut-off valve and curb line and the building, and the "house sewer" which conveys the waste water and sewage from the buildings to the street sewer or other point of disposal, including private sewage disposal contraptions or other methods and also includes storm or rain water pipings.

In order to safeguard life, health and property, any person, firm or corporation engaged in or working at the business of plumbing, either as a master plumber or a journeyman plumber, or both, or any person installing or placing any plumbing material or fixtures in counties containing cities of the first, second and third class of this Commonwealth, shall hereafter be required to submit evidence that he or she is qualified and shall be required to register, as hereinafter provided.

A master plumber is hereby defined to be a person who assumes responsible charge and direction of other persons in the installation of plumbing and drainage and is skilled in the planning, superintending and the practical installation of plumbing and drainage, and who has had at least two years' experience as a journeyman plumber.

A journeyman plumber is hereby defined to be a person who performs the work of installing plumbing and drainage under the direction of a master plumber, and who has served an apprenticeship of at least four years.

A plumber's apprentice is hereby defined to be a person who is an apprentice or helper to a journeyman plumber.

Any person who installs, or assumes responsible charge and direction of other persons in the installation of plumbing and drainage, or who employs for gain or reward a person not registered, as provided herein, to perform and install plumbing and drainage, shall be guilty of violating the provisions of this Act and shall be punishable under the terms thereof. Provided, however, the provisions of this Act shall not apply to anyone who is employed as a maintenance man by any person, firm or corporation, and who does not practice as his trade the occupation of a master or journeyman plumber in the installation of plumbing; and, provided further, the provisions of this Act shall not apply to persons employed by any water company in the laying, maintenance or operations of its water mains or other appurtenances in the conduct of its business.

A maintenance man is defined as a person employed to maintain and keep in good condition all plumbing, sewerage and drainage and to repair cocks, valves and leaks within the building or upon the premises owned and used by the employer of such maintenance man. Maintain means to keep; to preserve; to keep a thing in its present state and not add to or change location of. A maintenance man cannot work as a master plumber or a journeyman plumber or both

or install any plumbing fixtures unless he holds a certificate of registration as a plumber.

§ 2. STATE BOARD OF HEALTH; POWERS AND DUTIES; EXAMINERS; FEES.—For the purpose of carrying out the provisions of this Act and for the purpose of enforcing all of its provisions, the State Board of Health of Kentucky shall have jurisdiction, with power to issue and revoke certificates, as herein provided, conduct and hold examinations as herein provided, to make all the necessary rules and regulations for conducting the examination of applicants and governing the method and time for filing applications for examinations and the time within which an applicant must be examined after his application has been filed, and shall have the power to adopt all other reasonable rules and regulations not inconsistent herewith, as may be necessary to carry into effect the objects and purposes of this Act.

For the purpose of conducting the examination or examinations for persons to qualify as a registered master plumber or as a registered journeyman plumber under the provisions of this Act, the State Board of Health of Kentucky shall appoint as such examiners for such examination or examinations, the following persons: the State Health Officer, the State Sanitary Engineer, and three other persons who shall be registered under the provisions of this Act, either as a master plumber or a journeyman plumber. Provided, however, that one of said persons shall be a registered master plumber and one of said persons shall be a registered journeyman plumber.

For the purpose of defraying the expense of such examination or examinations, and other expenses incident to the operation of this Act, the following fees shall be paid to the State Board of Health of Kentucky:

(a) By an applicant for an examination to determine

his fitness to receive a certificate of registration as a master plumber, twenty-five ($25.00) dollars.

(b) By an applicant for a certificate of registration as a master plumber, twenty-five ($25.00) dollars.

(c) By an applicant for an examination to determine his fitness to receive his certificate as a registered journeyman plumber, five ($5.00) dollars.

(d) By an applicant for a certificate of registration as a journeyman plumber, five ($5.00) dollars.

(e) By an applicant for the annual renewal of the certificate as a registered master plumber, ten ($10.00) dollars.

(f) By an applicant for the annual renewal of the certificate as a registered journeyman plumber, three ($3.00) dollars.

All of the above fees must accompany the application, and no part of said fees shall be refunded.

An applicant failing to receive a certificate upon his first application, or an applicant who fails to pass his first examination, shall be entitled to enter any examination held within six months from the date of his failure to procure a certificate, as provided for in this Act, without the payment of any additional fee.

§ 3. CODE AS TO INSTALLATION OF PLUMBING, ETC., TO BE ADOPTED.—The State Board of Health of Kentucky, for the purpose of carrying out the provisions of this Act, shall establish, adopt, promulgate and put into effect a code regulating the installation of plumbing, house drainage and sewerage and sewage disposal, using as a minimum the basic principles adopted by the sub-committee on plumbing of the Building Code Committee of the United States, Department of Commerce, as shown in the final report of said committee under date of July 3, 1923, with such additions as local, climatic and other conditions may re-

quire, and also to fix reasonable fees for the purpose of carrying into effect the provisions of this Act.

§ 4. MATERIALS; KIND THAT MAY BE USED.—The use of all unsafe, lightweight and defective material in the work of plumbing and drainage is prohibited. Only the best known methods of installing of materials and fixtures, including supply pipes, waste, ventilation of plumbing system, soil pipe and sewerage shall be employed. It shall be unlawful to use in the work aforesaid lightweight lead pipe, bends and traps, and all combination lead and iron or combination lead and brass ferrules, bends or traps; but there shall be employed only the best known methods of joining lead or iron pipes by the use of heavy cast brass ferrules properly wiped with solder to lead.

§ 5. PERSONS TO WHOM CERTIFICATES AS REGISTERED MASTER PLUMBERS OR REGISTERED JOURNEYMAN PLUMBERS ARE TO BE ISSUED.—The State Board of Health of Kentucky, upon application of any person who is a citizen of the United States and at least twenty-one (21) years of age, shall issue a certificate as a registered master plumber or a registered journeyman plumber without examination to any of the following:

(a) Any person, firm or corporation who furnishes the proper evidence that he or she were known as a master plumber and practiced as a master plumber as his or her vocation within counties containing cities of the First, Second and Third Class of the Commonwealth of Kentucky at the time that this Act became a law, for at least five (5) years prior thereto and who applies for such certificate within six (6) months after the passage of this Act and its approval by the Governor.

(b) Any person who furnishes the proper evidence that he or she were known as a journeyman plumber and practiced as a journeyman plumber as his or her vocation within

counties containing cities of the First, Second and Third Class of the Commonwealth of Kentucky at the time that this Act became a law, for at least six (6) years prior thereto and who applies for such certificate within six (6) months after the passage of this Act and its approval by the Governor.

(c) Any person who furnishes the proper evidence that he or she now holds a license as a journeyman plumber, or who is a registered journeyman plumber and has passed the examination of any plumbing board of examiners for journeyman plumbers provided for under the laws of this State, and who applies for a certificate as a journeyman plumber within six (6) months after the passage of this Act and its approval by the Governor.

(d) Any applicant not possessing the qualifications as hereinabove set forth, who desires to become a registered master plumber or a registered journeyman plumber under the provisions of this Act, shall satisfactorily pass an examination designed to test applicant's practicability and technical knowledge of plumbing work, ventilation of plumbing systems, water supply, etc., provided such applicant is a citizen of the United States and at least twenty-one (21) years of age.

§ 6. WHO MAY BE STYLED AS REGISTERED MASTER PLUMBER OR REGISTERED JOURNEYMAN PLUMBER.—Any person having a certificate pursuant to the requirements of this Act may be styled or known as a registered master plumber or a registered journeyman plumber.

§ 7. NO PERSON SHALL ASSUME THE TITLE OF MASTER PLUMBER OR JOURNEYMAN PLUMBER UNLESS APPLICATION FOR CERTIFICATE HAS BEEN APPLIED FOR.—No person, firm or corporation presumed to have the right to secure such certificate because

of his or her use of the title "Master Plumber" or "Journeyman Plumber" prior to the time this Act goes into effect, shall assume any title indicating that he or she is a master plumber or journeyman plumber, or any words, letters or figures to indicate that the person using them is a master plumber or a journeyman plumber, unless he or she shall have qualified and obtained a certificate of registration as a master plumber or journeyman plumber, as provided for in this Act, or stated his or her intention in writing to the State Board of Health to apply for certificate within six (6) months after the passage of this Act and its approval by the Governor.

§ 8. A CORPORATION OR A PARTNERSHIP MAY ENGAGE IN THE BUSINESS OF PLUMBING.—A corporation or a partnership or an individual may engage in the business of plumbing within counties containing cities of the First, Second and Third Class in this State, provided a person or persons connected with such corporation or partnership or individual in responsible charge of such plumbing work is or are registered as herein required of master plumbers, or is or are otherwise authorized to practice. The same exemption shall apply to corporations and partnerships as apply to individuals under this Act.

It shall be the duty of any person who is a registered master plumber who is in responsible charge of such plumbing work for the corporation, partnership or individual, engaged in the plumbing business, for such person to notify the State Board of Health when such person severs his connection with the said corporation, partnership or individual.

§ 9. MUNICIPALITIES ADOPTING CODE MAY APPOINT PLUMBING INSPECTOR AND DEPUTY INSPECTOR; CONCURRENT JURISDICTION WITH COUNTY INSPECTOR; ACT NOT TO DEPRIVE CITIES OF THE FIRST, SECOND AND THIRD CLASS FROM

COLLECTING LICENSE FEES.—Any municipality in this Commonwealth included under the terms of this Act which shall adopt the code promulgated by the State Board of Health of the Commonwealth of Kentucky for plumbing hereinabove set forth through municipal ordinances regulating the installation of plumbing, shall have the right to appoint a municipal plumbing inspector and a deputy plumbing inspector, said municipal inspector and deputy municipal inspectors, shall have concurrent jurisdiction with the county plumbing inspector within the boundaries of the municipality in the enforcement of the provisions of this Act; provided, however, that at the time of their appointments the said municipal plumbing inspector and deputy municipal plumbing inspectors are either registered master plumbers, under provisions of this Act, or are registered journeyman plumbers under any law of this Commonwealth regulating the registration of journeyman plumbers or any municipal ordinance passed thereunder. No provisions of this Act shall deprive cities of the First, Second or Third Class from collecting its occupational license fees on either master or journeyman plumbers, or from the collection of fees for the issuance of permits for the installation of plumbing fixtures.

§ 10. COUNTY PLUMBING INSPECTOR; DEPUTY; APPOINTMENT; QUALIFICATIONS; SALARY.—For the purpose of carrying out the provisions of this Act, the State Board of Health of Kentucky shall appoint for counties containing cities of the First, Second and Third Class in this Commonwealth, a County Plumbing Inspector; also the State Board of Health of Kentucky may appoint such Deputy County Plumbing Inspectors as it may deem necessary to carry out the provisions of this Act. Such County Plumbing Inspector and Deputy County Plumbing Inspector or inspectors shall have at least ten (10) years experience as a journeyman plumber, or has had five (5) years experience as a journeyman plumber, and five (5) years experience as a

master plumber, or who has had ten (10) years experience either as a journeyman plumber and a master plumber. Provided, however, that such person must have had five (5) years experience as a journeyman plumber and who, at the time of his appointment, is either a registered master plumber or a registered journeyman plumber, under the provisions of this Act. The salary of said County Plumbing Inspector and the deputy or deputies shall be fixed by the State Board of Health at the time of or immediately after his or their appointment.

§ 11. This Act shall regulate the installation of Plumbing and Registration of Plumbers in all counties containing cities of the First, Second, Third Class. In all other counties in this Commonwealth it shall only regulate the installation of all plumbing in all public buildings and food establishments.

§ 12. PENALTIES FOR VIOLATING THE PROVISIONS OF THE ACT.—Any person, firm or corporation violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten ($10.00) dollars nor more than one hundred ($100.00) dollars, or imprisonment in the county jail for a period of not more than ninety (90) days, or both so fined and imprisoned, in the discretion of the court or jury.

§ 13. PARTIAL INVALIDITY, EFFECT OF.—If any clause, sentence, paragraph, or part of this Act shall for any reason, be ajudged by any court of competent jurisdiction to be invalid, said judgment shall not affect, impair or invalidate the remainder of said Act, but shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered.

§ 14. REPEALS.—All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

By Mr. Hamilton.

H. B. 101. An Act to provide for the sharing of primary and general election expenses by state and counties, and providing for the repeal of conflicting Acts.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. In all primaries and general elections where there are candidates for federal, state and district officers to be chosen, the expense of such primaries or general elections (such expenses to include the cost of delivering ballot boxes, booths, and office supplies to the polling places, the cost of office supplies, printing, advertising, the rent of polling places, Salaries election Commissioner, tabulators and election officers) shall be divided and borne equally by the state and county.

§ 2. Repeal of conflicting Acts.—All Acts or parts thereof in conflict with the provision of this Act are, to extent of such conflict, hereby repealed.

By Mr. Bennett.

H. B. 102. An Act requiring the Commonwealth of Kentucky to furnish and pay for certain county record books.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Commonwealth of Kentucky shall furnish and pay for all county record books used for the purpose of recording official business from which the county derives no fees or other direct income.

§ 2. When such record books are needed in any county, the official in whose office said books are required shall report such need to the fiscal court of such county, and if upon investigation the court is satisfied that such additional record books are necessary to the proper tranaction of business of said office, the court shall immediately file with the Secretary of State at Frankfort, an application setting forth the number and character of books needed; and upon receipt of said application, the Secretary of State shall, through whatever official channel the law may require, place an order for said books and have them delivered to the official in whose office they will be used.

§ 3. All laws and part of laws in conflict with this Act are hereby repealed.

By same.

H. B. 103. An Act requiring the Commonwealth of Kentucky to pay one-half the expense of all general and primary elections in Kentucky, except municipal elections.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the expense of holding all general and primary elections in Kentucky, except municipal elections, shall be borne one-half by the State of Kentucky and one-half by each respective county.

§ 2. Not later than fifteen days after each general or primary election, the County Court Clerk of each county shall mail to the Commissioner of Finance at Frankfort, an itemized, sworn statement showing the entire expenses incurred in holding the election in said county, accompanied by receipted vouchers showing that the entire cost of said election had been paid by the county. This statement shall be

attested by the chairman of the County Board of Election Commissioners and the Treasurer of said county, and shall be in such form and contain such information as the Commissioner of Finance may require. Not later than thirty days after receiving this statement, the Commissioner of Finance shall issue a voucher for one-half the amount set out in the report of the County Court Clerk and deliver same to the State Treasurer, who shall mail his check for said amount to the Treasurer of said county, thus reimbursing the county for one-half the expense of said election.

§ 3. This act shall not be construed to repeal or modify the existing law requiring the Secretary of State to furnish ballot paper to each county.

§ 4. If the statement made to the Commissioner of Finance by the County Court Clerk as provided in Section Two hereof should be untrue or fraudulent in any particular, said County Court Clerk shall be guilty of a felony, and upon conviction in any court of competent jurisdiction, fined not less than one hundred dollars nor more than five hundred dollars, and confined in the county jail sixty days.

By Mr. Bolling.

H. B. 104. An Act requiring serological blood tests for syphilis on pregnant women; providing for its administration, and prescribing penalties for the violation thereof.

Said bill is as follows, viz.:

WHEREAS syphilis has been found to be the cause of many stillbirths, abortions and premature labors in Kentucky, and

WHEREAS, it has been found to be a frequent cause of death in the early months of life in inherited syphilis, and

WHEREAS, it has been demonstrated that the treatment

of pregnant women afflicted with syphilis during their pregnancy prevents the transmission of the disease to their off-spring: Now therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Every physician and surgeon, or other persons, legally permitted to engage in attendance upon a preganant woman in Kentucky, shall take or cause to be taken a specimen of blood, for serological test for syphilis, from such woman, as soon as he or she is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. In case the woman is in a stage of labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen then, the specimen shall be obtained within ten days after delivery. The specimen of blood shall be submitted to an approved laboratory for serological test for syphilis. The laboratory test required by this Act shall be a serological test for syphilis approved by the State Department of Health of Kentucky and made by the laboratory of the State Department of Health of Kentucky, or a laboratory approved by the State Department of Health of Kentucky. Such laboratory test, if made by the laboratory of the State Department of Health of Kentucky, shall be made without charge.

§ 2. Every physician and surgeon who takes from a woman in pregnancy, or suspected pregnancy, a blood specimen for serological test for syphilis shall so identify that specimen, when submitting it to an approved laboratory for test, that the laboratory may provide a report in triplicate on forms prepared and furnished by the State Department of Health of Kentucky, of result of such test. The original of each such report shall be sent the physician and surgeon submitting the specimen, a duplicate shall be forwarded to the State Department of Health of Kentucky not later than

Saturday of the week in which the examination is made, and the triplicate shall be retained by the laboratory for its files.

§ 3. Every physician and surgeon, or other person, required to report births and stillbirths shall state on each birth certificate or stillbirth certificate, as the case may be, whether a blood test for syphilis was made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which the birth or still birth certificate is filed. If such a test was made, the physician and surgeon, or other person, shall state the name of the test used, the date when made and the name of the laboratory making the test; if not made, the physician and surgeon or other person shall state reason or reasons why such test was not made. In no event shall the result of the test be stated on the birth or stillbirth certificate.

§ 4. Any physician and surgeon or other person legally permitted to engage in attendance upon a pregnant woman during the period of pregnancy, or at delivery, and does so engage, who fails to exercise due diligency in complying with the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one hundred ($100.00) dollars, nor less than ten ($10.00) dollars, and thirty days in jail, either or both.

§ 5. The county attorneys in the several counties in the State shall prosecute for violation of this Act.

By Mr. White.

H. B. 105. An Act to amend and re-enact Section 17, Chapter 155 of the Acts of the General Assembly of Kentucky enacted at its regular 1893 session, edited as Section 388, Kentucky Statutes, Carroll's 1936 edition, relating to record books required by circuit and county court clerks.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 17, Chapter 155, of the Acts of the General Assembly of Kentucky, enacted at its regular 1893 session, edited as Section 388, Kentucky Statutes, Carroll's 1936 edition, be amended and re-enacted and when so amended and re-enacted shall read as follows:

The record books required by circuit and county court clerks shall be procured by the clerk upon the order of the court of which he is clerk, and shall be paid for by the state. It is further provided that the aforesaid clerks shall file a certified copy of the court's orders requisitioning their needs with the State Purchasing Commission. Said commission shall purchase said record books in the same manner as is now provided by law for other purchases made by it.

All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

This law is not to become effective until July 1st, 1942.

By Mr. Leslie.

H. B. 106. An Act to provide moral instruction for children in connection with the public schools.

Said bill is as follows, viz.:

WHEREAS, in order that a free and independent people may enjoy to the fullest the blessings of liberty, happiness and prosperity, it is necessary that people maintain a high standard of morals; and

WHEREAS, the preamble of the Constitution of Kentucky, states in part that, we, as a people are "greatful to Almighty Good for civil, political and religious liberities"; and

WHEREAS, these civil, political and religious liberties are best secured and furthered by providing moral instruction for pupils in connection with the public schools of the State; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Boards of Education may provide for moral instruction.* The Boards of Education of independent and county school districts are hereby authorized and empowered to provide for the moral instruction of pupils subject to the jurisdiction of such boards of education in the manner hereinafter provided in this Act.

§ 2. *Survey of religious preferences may be made.* The board of education of each school district may authorize a complete survey of the church affiliations, or preferences, of all the pupils attending the public schools within said district and ascertain therefrom those pupils who desire this instruction and have the consent of parent or guardian for said instruction as provided in this Act.

§ 3. *Time and place of instruction to be determined by boards of education.* Once a day in each week, to be fixed by said boards of education, such pupils, as express desire for moral instruction may be excused for at least one hour for the purpose of attending their respective places of worship, or some other suitable place, there to receive moral instruction in accordance with the religious faith or preference for the said pupils.

§ 4. *Rules and regulations.* Each school board is authorized to adopt rules and regulations for carrying into effect the provisions of this Act and to make such arrangements with the respective persons in charge of the moral instructions as the said board deems necessary and advisable.

§ 5. *Credit for time spent in moral instruction.* Pupils taking advantage of the instruction as provided in this Act

and attending said classes for moral instruction therein at the time specified and for the period fixed shall be credited with the time so spent as if such pupils had been in actual attendance in school.

§ 6. *Pupils to remain in school or be present in the aforesaid classes.* Any pupil who for any reason fails to take advantage of the aforesaid moral instruction, shall remain in school during the time when such instruction is being given provided, but such child shall not receive any educational advantage over children receiving such instruction.

§ 7. *Expense.* The aforesaid moral instruction shall be given without expense to any board of education, beyond the cost of the original survey, hereinbefore mentioned.

§ 8. *Intent of Act.* It is hereby declared to be the intent of the General Assembly of Kentucky that this Act shall be permissive and not mandatory.

By Mr. Moebus.

H. B. 107. An Act to amend and re-enact as amended, Section 110, Carroll's Kentucky Statutes, Baldwin's 1936 Revised edition, relative to certain officers who are not permitted to practice law.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 110, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, relative to certain officers who are not permitted to practice law, be amended and re-enacted, so that said section, when amended, and re-enacted, shall read as follows:

"The Governor or a Judge of the Court of Appeals or Circuit Court shall not practice law or render any service as an attorney or counselor at law in any of the courts of this

Commonwealth, except in such cases as he may have been employed in previous to his election, or in cases in which he may be personally interested.

"The Clerk or Deputy Clerk of any court shall not practice law or render any service as an attorney or counselor at law in the court or courts of this Commonwealth of which he is clerk or deputy clerk."

By Mr. McMakin.

H. B. 108. An Act prohibiting the manufacture, sale, exchange, offering for sale or exchange and possession with intent to sell or exchange, milk, cream, etc., to which has been added or which has been blended or compounded with fat or oil other than milk fat; and prescribing penalties for violations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That whenever used in this Act the term "person" includes an individual, partnership, corporation or association.

The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed; Provided, that this definition shall not be held or construed to mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, to which has

been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powered, dried, or desiccated milk or cream, provided such compound (1) is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician; (2) is packed in individual containers bearing a label in bold type that the contents are to be used for said purposes; and provided further, that nothing in this definition shall be held or construed to prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oils other than milk or butter fat.

§ 2. That "filled milk" as herein defined, is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 3. That it shall be unlawful for any person, by himself, his servant or agent, or as the servant or agent of another, to manufacture for sale within this State, or sell or exchange, or have in his possession with intent to sell or exchange, any "filled milk" as defined in this Act.

§ 4. That any person who shall violate any of the provisions of this Act, shall upon conviction, be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), or be imprisoned in the county jail for not less than ten (10) days, nor more than six (6) months, or by both such fine and imprisonment.

§ 5. That if any clause, sentence, paragraph, or part of this Act, shall, for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation, to the clause, sentence, para-

graph, or any part thereof, directly involved in the controversy in which the judgment has been rendered.

§ 6. That all laws or parts of laws, contrary to, or inconsistent, with the provisions of this Act, be, and the same are, hereby repealed.

§ 7. It shall be the duty of the State Board of Health to enforce this Act in every county of the Commonwealth of Kentucky.

§ 8. It shall be the duty of the County Attorney in any county of the Commonwealth of Kentucky to prosecute any violation of this Act.

§ 9. This Act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Stacy.

H. Res. 12. Resolution authorizing John Cox of Pomeroyton, Menifee County, Kentucky to sue the Commonwealth of Kentucky and/or the State Highway Commission.

Said resolution is as follows, viz.:

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, the State Highway Commission, through its employes and agents, while constructing and doing road work on the (Trimble Bend Road) and intersecting to State Highway No. 40, in Menifee County, Kentucky, and while exploding dynamite at said place, caused damage to the store building and its contents owned by said John Cox in the approximate sum of $100.75.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That John Cox, Pomeroyton, Kentucky, be and is hereby empowered and authorized to institute suit against the

Commonwealth of Kentucky and the State Highway Commission, and/or either for the purpose of determining the liability of the Commonwealth of Kentucky, and the State Highway Commission, or either, for such damage if any there be, arising from the damage and injury to his said store building, and its contents; and in the event any judgment is recovered or same is compromised or settled the judgment or amount agreed on, if any, shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Said action may be brought in Menifee County. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and agreed judgment entered with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

By Mr. H. O. Porter.

H. Res. 13. Joint resolution for the payment to the Hon. W. B. Lackey, Chief of Police of Richmond, Madison County, Kentucky the sum of $73.20, the amount due him on a claim against the Commonwealth of Kentucky for services rendered in conveying a fugitive from justice from St. Louis, Missouri, to Richmond, Kentucky, one J. B. Wunch and delivering the said J. B. Wunch to the jailer of Madison county.

Said resolution is as follows, viz.:

WHEREAS, on July 14th, 1939, one J. B. Wunch committed a felony in Richmond, Kentucky by conspiring with one J. W. Wright for the purpose of obtaining money under false pretenses and was thereafter convicted for said offense by the Madison Circuit Court, and

WHEREAS, W. B. Lackey, Chief of Police, of Richmond, Kentucky, was notified after the commission of the crime that

said person was apprehended in St. Louis, Missouri, and that immediately, thereafter, the said W. B. Lackey went to St. Louis, Missouri, and brought the said prisoner back to Richmond and incurred expenses to him personally in the sum of $73.20, and

WHEREAS, on or about October 14th, 1939, the said W. B. Lackey presented a claim to the Commonwealth of Kentucky for said sum which claim was proven according to law, and

WHEREAS, said claim was rejected because the said J. B. Wunch waived extradition which did not permit the Chief of Police to receive compensation for his services under the Statutes of this Commonwealth, and

WHEREAS, the said claim of W. B. Lackey is a just claim and moral obligation of the Commonwealth and said services were rendered on behalf of the Commonwealth of Kentucky and for the protection of the citizens of the Commonwealth; therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That for the purpose of paying the said sum to the said W. B. Lackey, Chief of Police, of Richmond, Kentucky, there is hereby appropriated out of the general revenue of the State the sum of $73.20, and the Auditor of Public Accounts is hereby authorized and directed to draw his warrant upon the Treasury for said amount payable to W. B. Lackey, Chief of Police, Richmond, Kentucky, and deliver the same to him for the purpose aforesaid.

By Mr. Hunnicutt.

H. Res. 14. A Resolution to provide for ten copies each of Carroll's 1936 Kentucky Statutes, and Baldwin's 1939 Kentucky Statute Service for the use of the General Assembly, and providing for the payment for same.

Said resolution is as follows, viz.:

WHEREAS, it is necessary to expedite the business of the General Assembly of Kentucky, that the members thereof have free access to the Statutes and Service of the Commonwealth for their use and benefit during the present session of the General Assembly, THEREFORE

Be it Resolved by the House of Representatives, the Senate concurring therein:

§ 1. That the Clerk of the House of Representatives be, and he is hereby instructed to procure ten copies each of the One Thousand Nine Hundred and Thirty-six (1936) Revision of Carroll's Kentucky Statutes, and the One Thousand Nine Hundred and Thirty-nine (1939) Edition of Baldwin's Kentucky Statute Service, for the use and benefit of the members of the General Assembly, and the Committees thereof. The Clerk of the House shall present the bill for same to the Finance Department—Division of Accounts and Control, who is hereby directed to draw his warrant for the payment of same upon the Treasurer of the Commonwealth of Kentucky, payable out of the Legislative Expense Fund.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions which were introduced on yesterday, as follows, viz.:

H. B. 87. Cities of the Second Class.

H. B. 88. Municipalities.

H. B. 89. Circuit Courts.

H. B. 90. Agriculture No. 1.

H. B. 91. Education No. 1.

H. B. 92. Education No. 1-A.

H. B. 93. Cities of the Second Class.

H. B. 94. Railroads.

H. B. 95. Circuit Courts.

H. B. 96. Suffrage and Elections.

H. Res. 11. Claims.

Mr. Hunnicutt of the Committee on Appropriations No. 1 to which the same had been previously referred, reported a resolution entitled:

S. Res. 5. Joint Resolution increasing the compensation of the officers and employees of the Senate and House of Representatives during the 1940 regular session.

With the expression of opinion that said resolution ought to pass.

Said resolution was read at length the first time and ordered to be placed on the Calendar.

A message was received from the Senate announcing that they had passed a resolution which originated in this House entitled:

H. Res. 2. Resolution providing for the purchase of "The Legislative Digest."

And that they had passed a bill which originated in this House, entitled:

H. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the State

Government of the Commonwealth of Kentucky, including each of the various officers, departments, boards, commissions institutions, and sub-divisions of the State Government, and the purchase of record books as provided by Section 388, Kentucky Statutes, 1936 Edition, judiciary and court costs, Confederate pensions, the Frankfort Cemetery, Jefferson and Kenton county fees, and for defraying the expenses of all other State obligations for (a) the fiscal years ending June 30, 1941 and June 30, 1942.

With an amendment thereto as proposed and adopted by the Senate.

Said amendment as proposed and adopted by the Senate is as follows, viz.:

Amend H. B. 1 in Senate by striking the numeral 49 in line 17 on page 35 of said bill, and inserting in lieu thereof the numeral 48.

Said amendment was then concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Gus A. Brooks	W. Q. Daniel
H. T. Baker	Randolph A. Brown	F. E. Daugherty
Robert E. Barry	Charles M. Carter	Stanley S. Dickson
Rell Bevins	James W. Chapman	Forest C. Easley
Sterling B. Blake	S. B. Chrisman	D. E. Edwards
Douglas T. Bolling	John Coulter	Harry W. Ennis
W. S. Brim	John H. Cox	Carlos Fallis
C. J. Bronston	Pink G. Curd	T. P. Fitzpatrick

Cecil Florence	W. Paul Lyon	Ray O. Shehan
Wayne Freeman	C. C. May	Faust Y. Simpson
Eugene Gough	T. B. McConnell	Otto Smither
Van Y. Greene	E. Hayes McMakin	E. T. Sparks
Ralph C. Hamilton	Norris McPherson	J. Claude Stacy
C. L. Hammons	Stanley C. Moebus	Ray J. Stengel
T. H. Hickey	John B. Mollette	Henry Stewart
Clyde S. Howard	Davis Moore	W. St. Clair Stuart
Chester Huffines	C. Homer Neikirk	Otis C. Thomas
John M. Hunnicutt	Carl D. Perkins	Erna E. Tyra
W. H. Hunt	B. W. Porter	J. Wood Vance
R. L. Jackson	H. O. Porter	S. J. Wagner
J. B. Jarboe, Jr.	Kleber F. Price	Porter Wallace
Chas. X. Jones	Hobart Rayburn	Harry F. Walters
John S. Juett	Thomas Rigdon	Henry Ward
William K. King	Joe E. Robinson	H. L. Waterfield
W. A. Lamkin, Jr.	Lyman Roll	Otis White
Robert E. Lee	Jack Savage	James H. Woods
Harvey D. Leonard	Carl Scheben	
Edward Leslie	Leon J. Shaikun	—82

Mr. Joe Robinson moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said resolution and bill be delivered to the Enrolling Clerk of this House.

Mr. Joe Robinson moved that the House do now adjourn to meet again on Tuesday, January 16, at one-thirty o'clock P.M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, JANUARY 16, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend John Galloway of the Presbyterian Church, North, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

J. Everett Bach	T. P. Fitzpatrick	John B. Mollette
H. T. Baker	Cecil Florence	Davis Moore
G. M. Ballard	Wayne Freeman	J. Lee Moore
Robert E. Barry	Eugene Gough	Joe T. Morgan
Wm. T. Beard	Van Y. Greene	C. Homer Neikirk
Alvis S. Bennett	Ralph C. Hamilton	Carl D. Perkins
Rell Bevins	C. L. Hammons	B. W. Porter
Sterling B. Blake	T. H. Hickey	H. O. Porter
Douglas T. Bolling	Clyde S. Howard	Kleber F. Price
J. F. Bosworth	Chester Huffines	Hobart Rayburn
W. S. Brim	John M. Hunnicutt	Thomas Rigdon
C. J. Bronston	W. H. Hunt	W. H. Riley
Gus A. Brooks	R. L. Jackson	Joe E. Robinson
Randolph A. Brown	J. B. Jarboe, Jr.	Lyman Roll
Haynes Carman	Chas. X. Jones	Jack Savage
Charles M. Carter	John S. Juett	Carl Scheben
James W. Chapman	William K. King	Leon J. Shaikun
S. B. Chrisman	W. A. Lamkin, Jr.	Ray O. Shehan
John H. Cox	Robert E. Lee	Faust Y. Simpson
Pink G. Curd	Harvey D. Leonard	Bruce Sloan
W. Q. Daniel	Edward Leslie	Otto Smither
F. E. Daugherty	W. Paul Lyon	E. T. Sparks
Stanley S. Dickson	C. C. May	G. C. Springate
Forest C. Easley	T. B. McConnell	J. Claude Stacy
D. E. Edwards	Frank C. McElwain	Ray J. Stengel
Harry W. Ennis	E. Hayes McMakin	Henry Stewart
R. R. Ernst	Norris McPherson	W. St. Clair Stuart
Carlos Fallis	Stanley C. Moebus	T. M. Swope

Otis C. Thomas	S. J. Wagner	H. L. Waterfield
Erna E. Tyra	Porter Wallace	Otis White
J. Wood Vance	Harry F. Walters	James H. Woods
Walter R. Vansant	Henry Ward	—95

Mr. Shehan moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Scheben moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Daugherty moved that the privilege of the floor be extended to Mr. Charlie Moran of Danville, Kentucky.

Said motion was agreed to.

Mr. H. O. Porter moved that the privilege of the floor be extended to Mr. and Mrs. R. C. Boggs of Richmond, Kentucky.

Said motion was agreed to.

M. H. O. Porter moved that Miss Alice Jane Boggs of Richmond, Kentucky be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. Juett moved that the privilege of the floor be extended to Mr. Harry Burge of Williamstown, Kentucky.

Said motion was agreed to.

Mr. W. K. King moved that the privilege of the floor be extended to Mr. Robert Davis.

Said motion was agreed to.

Mr. Florence moved that the privilege of the floor be extended to Judge J. A. Stewart and Mr. S. F. Sprake.

Said motion was agreed to.

Mr. J. Lee Moore moved that the privilege of the floor be extended to Judge William Price and Mr. Vernon Richardson of Danville, Kentucky.

Said motion was agreed to.

Mr. Barry moved that the privilege of the floor be extended to Mr. Ben Kilgore.

Said motion was agreed to.

Mr. Bevins moved that the privilege of the floor be extended to Mr. Connolly of Pikeville, Kentucky.

Said motion was agreed to.

Mr. Roll moved that the privilege of the floor be extended to Messrs. P. A. Melton and Hillary Baskett of Henderson county.

Said motion was agreed to.

Mr. Joe Robinson moved that the rules of this House be suspended and that the House proceed with the regular order of business.

Said motion was agreed to.

The Clerk announced the introduction of the following bills, viz.:

By Mr. Ward.

H. B. 109. AN ACT amending and re-enacting Section 3235dd-33 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being an act relating to appointment of city managers in cities of the second class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 3235dd-33 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, is hereby amended and re-enacted so that as amended and re-enacted it shall read as follows:

The city manager shall be chosen by the board of commissioners solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or state. He shall be employed for an indefinite period. He shall be removable at any time without cause by the vote of four of the five members of the board of commissioners, and shall be removable for cause, including willful neglect of duty, at any time by a majority vote of the members of the board of commissioners, but such removal shall not be effected by a reduction in the compensation of the city manager. If removed by the vote of less than four of the five members of the board of commissioners at any time after having served for six months the city manager may in writing demand that written charges be filed against him by the board and a public hearing on the same before the board of commissioners prior to the date on which his final removal shall take effect, but during such hearing the board of commissioners may suspend him from office. Such public hearing shall be fixed by the board on a date not to exceed thirty

days after such demand therefor. The city manager shall have the right to be represented by counsel and to present evidence at the hearing. He shall have the right of appeal to the courts from the decision of the board, except when removed by the vote of four of the five members of the board of commissioners. During the absence or disability of the city manager the board shall designate some properly qualified person to perform the duties of the office. The city manager shall receive such compensation as may be determined by the board of commissioners.

By same.

H. B. 110. An Act amending and re-enacting section 4281f-1, of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4181f-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be amended by repealing said Section in its entirety and reenacting it to read as follows:

(a) "Places of amusement and/or entertainment" shall mean and include all theatres, ball parks and stadia, lecture halls, dance halls, night clubs, skating rinks, public bathing places, and all places of other sorts, whether like the above mentioned or not, at which businesses providing amusements and/or entertainments for which a charge is made are operated, but shall not mean nor include race tracks subject to the supervision of the Kentucky Racing Commission, athletic contests, of which one of the contesting teams is composed exclusively of any educational institution in Kentucky, and public bathing places, swimming pools, golf

courses, tennis courts, bridle paths and all other similar recreational facilities owned or operated by municipalities.

(b) The Term "sale" shall mean and include the transfer or exchange for valuable consideration of services of all classes and kinds.

(c) The word "person" shall mean and include individuals, firms, joint stock companies, syndicates and corporations.

(d) "Professional entertainers" shall mean and include any person or persons who receive pay in money or money's worth for their performances.

(e) "Proprietor" shall mean and include any person who owns, operates, or manages a place of amusement and/or entertainment.

(f) "Department" shall mean and include the Department of Revenue of Kentucky.

§ 2. All Acts and parts of Acts in conflict herewith, to the extent of such conflict are hereby repealed.

By Mr. Leslie.

H. B. 111. An Act to amend subsection (b) of section 9, chapter 50 of the Acts of 1938, compiled as subsection (b) of section 4748-9 of Baldwin's Kentucky Statutes Service, April, 1939.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Subsection (b) of section 9 of Chapter 50 of the Acts of 1938, compiled as subsection (b) of section 4748g-9 of Baldwin's Kentucky Statute Service, April, 1939, is amended to read as follows:

Disqualifications. A totally or partially unemployed worker shall not be eligible for benefits:

(1) For the week in which he has left his most recent work voluntarily and without good cause, if so found by the Commission, and for not less than two nor more than the nine weeks which immediately follow such week, as determined by the Commission according to the circumstances in each case;

(2) For the week in which he has been discharged for misconduct connected with his most recent work, if so found by the Commission, and for not less than two nor more than the nine weeks which immediately follow such week, as determined by the Commission in each case according to the seriousness of the misconduct, provided that for the purpose of this subsection legitimate activity in connection with labor organizations shall not be construed as misconduct;

(3) If the Commission finds that he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the Commission, or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the Commission. Such ineligibility shall continue for the week in which such failure occurred and for not less than two nor more than the nine weeks of continuous unemployment which immediately follow such week as determined by the Commission according to the circumstances in each case.

In determining whether or not any work is suitable for a worker the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training; his experience and prior earnings; his length of unemployment and prospects for securing local work in his customary occupation and the distance of the available work from his residence.

No work shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible worker for refusing to accept new work under one or more of the following conditions:

(A) If the position offered is vacant due directly to a strike, lockout or labor dispute;

(B) If the wages, hours or other conditions of the work offered are substantially less favorable to the worker than those prevailing for similar work in the locality;

(C) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) If he has left (or partially or totally lost) his employment because of a strike or a bona fide labor dispute, for any week in which the strike or dispute is in active progress in the establishment in which he is or was employed; but no worker otherwise eligible to receive benefits under the provisions of this Act shall be disqualified by reason of a lockout, or by reason of unemployment during the period intervening between the termination of a contract of employment and the entry into a new contract of employment between employers and workers. Negotiations between workers and employers for a contract of employment shall not be construed to be a labor dispute.

(5) For any week with respect to which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between Kentucky and such state or the United States under Section 13 or sub-section (j), paragraph (5) (E) of Section 3 of this Act.

(6) For any week with respect to which the worker is receiving or has received remuneration in any of the following forms; provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration;

(A) Wages in lieu of notice, or any payment by the

way of compensation for the loss of wages through an employee pension plan;

(B) Compensation for temporary disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

(C) Old Age Benefits under Title II of the Social Security Act, as amended, or similar payments under any Act of Congress.

(7) If the Commission finds, after fair hearing, that he has knowingly made a false statement to establish his right to or the amount of his benefit. Such ineligibility shall continue for the week in which such false statement was made and for not less than two nor more than the nine weeks of continuous unemployment which immediately follow such week, as determined by the Commission according to the circumstances in each case.

By Mr. Smither.

H. B. 112. AN ACT repealing and re-enacting Section one thousand five hundred and eighty-seven (1587) Carroll's Kentucky Statutes, Baldwin's Revision, one thousand nine hundred and thirty-six (1936) edition, pertaining to the bribery of another in an election.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section one thousand five hundred and eighty-seven (1587) of Carroll's Kentucky Statutes, one thousand nine hundred and thirty-six (1936) Baldwin's Revision be repealed and re-enacted as follows:

Whoever shall bribe another shall, on conviction, be fined from one hundred ($100.00) dollars to five hundred ($500.00) dollars, or imprisoned from three months to twelve

months, or both so fined and imprisoned, and be excluded from office and suffrage.

By Mr. Waterfield.

H. B. 113. An Act in relation to the acquisition and use of property for a National Mississippi River Parkway.

Said bill is as follows, viz.:

(a) WHEREAS, this State desires to avail itself of the benefits of an Act introduced in the 1939 Congress of the United States establishing and authorizing a survey for a national Mississippi River Parkway from its source to its mouth, a portion of which as a rural trunk parkway, will also serve as a "market to farm" route for tourists, it is anticipated, will be located in this State; and

(b) WHEREAS, interstate north and south travel-trade from the ten States bordering on the Mississippi River, containing approximately thirty million people constituting one-fourth of the population of the nation with over five million passenger automobiles, is continually increasing due to greater industrial leisure and tourist attractions; and

(c) WHEREAS, this State will benefit from the added facility and motor vehicle park road for use of its citizens and tourists to this State and from the gasoline tax and other income from increased "travel-trade" through the State; and

(d) WHEREAS, the demands and needs for a national park and rural trunk parkway through the Mississippi Valley with connections for future branch tributary valley parkways and public areas for recreational purposes as a part of the nation-wide parkway system, justify the authorization of this particular parkway as timely; and

(e) WHEREAS, such authorization by the General Assembly is desirable now in order that this State and political

sub-division, associations and citizens thereof, may plan for and procure public areas and historic sites enroute while same may be readily available; and to provide creative employment of everlasting value; and

(f) WHEREAS, Act No. 770½ approved June 23, 1936, and modified to apply to this State, authorized the Secretary of Interior through the National Park Service to make comprehensive study with this State with a view toward developing a coordinated adequate public park, parkway and recreational area plan and program for the people of this State; and

(g) WHEREAS, this State bordering the Mississippi River through its respective park, planning and highway agencies, has cooperated with the National Park Service and the National Resources Committee in developing a natural resource program and plan for a *"Mississippi River Parkway"* from its source to the mouth; and

(h) WHEREAS, increased leisure necessitates increased recreation and conservation facilities along the great waterway; and

(i) WHEREAS, pending the enactment by the State of adequate enabling legislation, general Federal surveys, plans and estimates for parkway may proceed, but no Federal funds shall be expended for parkway road construction within this State through which a portion of the parkway is to be located; and

(j) WHEREAS, this State as a Federal requirement must furnish the parkway lands to the Federal Government and bear the expense of acquisition therefor, NOW, THEREFORE,

Be it enacted by the General Assembly of the State of Kentucky:

In order to carry out the requirements of the Act of Congress of the United States, in the event that H. R. 3759

is enacted into law, with respect to parkway lands within the State for an interstate Mississippi River Parkway and to obtain the benefits thereof and of Federal funds and aids for its construction, maintenance and administration, the following rights, powers and duties are hereby conferred upon the State Highway Department and the following provisions of law are hereby enacted:

§ 1. *Acquisition of Lands:* That the State Highway Department is hereby designated, authorized and directed as the State agency of this State to acquire by gift, purchase or condemnation as a public highway and convey to the United States all parkway lands and easements as and when required by aforesaid Act of Congress and by surveys and maps hereafter approved by the Secretary of the Interior.

§ 2. *State Agency Owned Lands:* That State agencies owning or controlling various State-owned areas or State-owned easements or interest therein of State agencies are hereby authorized to cooperate in the conveyance of such lands, easements or interests to and in favor of the United States for this national parkway.

§ 3. *Land Donations to Federal Government:* That if, as a result of such required surveys, maps and estimates, the Secretary of the Interior shall be satisfied that one or more desirable parkway routes are available and the President shall approve thereof, then the State Highway Department of this State be and it hereby is authorized to accept donations of and acquire lands, interests in lands, islands, waters, easements and other property and thereafter convey same to the United States on behalf of this State bordering the Mississippi River, or such of its political subdivisions or private parties may convey necessary or convenient property or easements for such projected parkway, together with sites in connection therewith acquired or to be acquired for recreational or naturalistic purposes. Thereafter, such areas together with the parkway right-of-way of a width sufficient

to include the road and all bridges, ditches, cuts and fills appurtenant thereto shall constitute such national parkway in this State.

§ 4. *Definitions:* That when used herein unless the context otherwise requires, the term

(1) "Secretary" shall mean the Secretary of the Interior.

(2) "Parkway" shall mean and include parkway areas of varying widths principally through rural areas with sightly, landscape, scenic, safety and wayside development grants and easements, with minimum frontage and private access rights, featuring a parkway road designed primarily for passenger car traffic and specifically adapted to leisurely travel as a tourway for outdoor recreation and "market-to-farm" use by tourists, including service and recreational facilities and the preservation of scenic, historical and scientific features.

(3) "Scenic, landscape, sightly or safety easement" shall mean a servitude devised to permit land to remain in private ownership for its normal agricultural, residental or other use consistent with parkway purposes determined by the Secretary, and at the same time placing a control over the future use of the area to maintain its scenic, landscape, sightly and/or safety values for the parkway in this State.

§ 5. *Amount and Width of Right-of-Way:* That an average right-of-way of not less than one hundred acres per mile in fee simple, plus scenic, landscape, sightly or safety easement control up to a total average of fifty acres per mile, shall be provided for the gross length of the parkway in this state for parkway purposes. At no point shall the width of such parkway area through State or private lands be less than two hundred feet, except as the Secretary may determine in particular cases. If the total acreage acquired by this State and its political subdivisions or other parties and transferred

to the United States for parkway purposes is less than the above stated minimum per mile, then other public areas adjacent to or near the parkway having scenic, recreational, conservation, floodway or historic value, shall be owned, acquired, or administered satisfactorily to the Secretary or leased thereto sufficient to bring the total acreage up to the minimum. The area boundaries need not be mechanically determined or measured by a uniform distance from the center line of the parkway. The variation of the width shall be dependent upon the topographical and other natural conditions, requirements of design, easements, and time and cost of acquisition. Owing to proximity in numerous locations of vertical picturesque bluffs close to the Mississippi River at high water stages and the narrow range of location of existing railway facilities, the parkway road may be constructed over or under such precipitous cliffs and caverns and around and across river bends and through back country as will best diversify the rugged, wooded and open pastoral scenery and water vistas, and also tend toward economical cost of land acquisitions and parkway road construction and maintenance. The State may include in its fee simple parkway right-of-way requirement, such nearby areas of the Mississippi River within its boundaries, other than the navigable channel thereof at normal river stage, provided the nearest edge of such supplementary water, island, floway or floodway areas shall be within five hundred feet of the center line of the parkway road and shall not exceed a width of one thousand feet.

§ 6. *State to Obtain Titles and Adjustment of Local Roads:* That this State directly or indirectly from or through its political subdivisions, shall acquire and convey to the United States the necessary areas in fee simple, together with landscape, sightly, safety or scenic easements, and rights-of-way for connections to the approaches of trans-Mississippi River bridges; subject to such flowage, revet-

ment, bank protection, levee or other river control, harbor line and navigation reservations or rights as the Secretary of War may determine are essential for navigation or flood control purposes. The titles and evidences of titles to such areas so acquired, for protection to the United States in case of use or occupancy thereof, shall be satisfactory to the Secretary. Deeds shall be accompanied by land maps, survey notes and closure sheets. This State, through its Highway Department or its respective public subdivisions, is hereby authorized to construct, relocate or abandon any local, public or service road, crossing or parallel to the parkway road on parkway land, when requested by the Secretary.

§ 7. *State Acquisition Procedure:* That parkway areas as acquired by this State and scenic, landscape, sightly or safety easements on additional areas, shall be in accordance with preliminary development and property maps submitted to the State by the Secretary. State agencies and interstate or intra-state utilities having fiscal or other interests in any such properties may join in or execute releases for such parkway areas or easements. Parkway area acquisition shall be undertaken in units of sufficient length to justify placing such units under contract for construction of the parkway road as soon as acquired by the State and accepted by the Secretary.

§ 8. *Use of Existing or Projected Highways:* That when the construction of sections of the parkway road parallel to existing highways will result in unnecessary expense and the Secretary may, in his discretion, use existing or projected sections of streets or highways, bridges, parks or other areas as connecting links between other sections of this parkway, and federal funds may be expended for parkway purposes thereon under the provisions of this Act, no parkway area credits need be allowed the State therefor. In the event it is determined that such connecting links of highways should provide for other than passenger car traffic, a cooperative

agreement with respect to such use and the reconstruction, maintenance and control thereof may be entered into by the Secretary with the State Highway Department or local public authorities concerned. Alternate routes through or around urban areas, along scenic country or connecting historic sites, may be provided or required for acceptance by the Secretary for parkway purposes.

§ 9. That this State hereby cedes to the United States concurrent jurisdiction to so regulate that the United States shall exercise concurrent jurisdiction to regulate use of such parkway areas and traffic on such parkway road, to protect the areas and property thereon belonging to the United States from damage, depredation or destruction, to operate and administer the areas and property of the United States embraced in said parkway as a national parkway, when consistent with the current uses of other federal departments through whose areas such parkway extends, and to prosecute in the Federal Courts any violation of such parkway regulations.

§ 10. *State and Local Jurisdiction as to This State:* That there is hereby preserved to this State or its political subdivisions thereof in which such parkway areas are located, all other powers and expressly and specifically reserves thereto jurisdiction in all civil and criminal matters; also the power to levy and collect a tax on all motor vehicle fuels and lubricants on said parkway, and a tax on the sale thereof and of other products and services sold on said parkway, or on any part of the property conveyed to the United States pursuant to this Act, except sales to and for exclusive use of the Federal government; also the jurisdiction and power to tax and license or to prohibit the sale of intoxicating liquors on any such area so conveyed, or to be conveyed; also the right to levy and collect a tax on all property, including buildings erected thereon, not belonging to the United States; also the authority to require licenses and impose license taxes

upon any business or businesses conducted thereon under lease with the United States. The above powers enumerated as expressly and specifically reserved to this State or political subdivisions thereof, in which such parkway areas are situated, shall not be construed as being in any respect inconsistent with or impairing the powers of the United States. By mutual agreement between federal and state or local authorities, their respective patrolmen may cooperate in the enforcement of parkway regulations and controlling parades or convoys on the parkway road.

§ 11. *State Powers:* That the Highway or other Departments of the State are hereby authorized to

(a) Acquire and convey to the United States parkway areas in accordance with the provisions of this Act.

(b) Allocate necessary funds when appropriations are available therefor, for the acquisition of such parkway areas and for other purposes outlined below as and when needed.

(c) Arrange for or re-arrange fencing, cattle passes or piping water supply to adjoining landowners; change overhead wires; construct underground wire and pipe crossings; reconstruct public and private roads; make surveys, and prepare land maps and conduct condemnation suits, all without cost to the United States.

(d) Exercise the right of eminent domain to appropriate and condemn land or land or waters of sufficient width to conform to the requirements of this Act, and to convey same to the United States for parkway, easements, recreational or conservation purposes (title to the land vesting in the State upon institution of such proceedings); and to acquire fee simple areas, scenic and other easements and areas requested for revetments, quarries, gravel, dredging and borrow pits found necessary for parkway construction.

(e) To have its representatives and of the United States to enter upon private lands for the purpose of making

surveys; to hold the United States free and harmless from claims arising from the surveys, development, construction, maintenance and operation of the parkway undertaken by the United States on such property, and to protect parkway areas by state authority after acquisition by the state and acceptance by the Secretary until such time prior or subsequent to construction as the condemnee shall have received full compensation therefor from the State;

(f) Provide for the relocation or abandonment of sections of local, public and private roads, or of railroads by agreement therewith, on parkway land as may be necessitated by the design and construction of the parkway when such relocation or abandonment does not interfere with flood control projects or rulings of the State Public Service Commission.

(g) Convey all or portions of state-owned areas and state-owned easements to the United States of sufficient amount to conform to the requirements of this Act when the parkway extends through state-owned areas or absorbs state-owned easements.

(h) Assume indebtedness or secure releases therefrom through irrigation, flood control, drainage or other political districts or subdivisions wherever outstanding indebetedness exists therein.

(i) Provide for the concurrent jurisdiction of this State over the parkway areas after title thereto becomes vested in the United States.

(j) Permit as soon as the route of the parkway shall be determined, the immediate payment of premiums on standing timber, pending final purchase in order to discourage timber cutting by owners during the negotiation period or the execution of leases in advance of possession, satisfactory to the Secretary.

(k) Permit the elimination of existing and the denial of new frontage or access rights to the parkway motor-vehicle

road and on parkway land to landowners whose land abuts the parkway land by one or more of the following remedies: Purchase of residual tracts, acquisition by excess condemnation, provision of other means of access to public highways, acquisition of private rights-of-way or by adjustment of damages.

(l) Require the elimination of stock grazing on parkway land or the unrestricted use therefor of such land by adjacent landowners.

(m) Undertake preliminary surveys and preparation of topographical plats of the flagged locations of the parkway road, for the purpose of aiding the federal engineers in determining the final location of the parkway road and right-of-way boundaries.

§ 12. *Overall Clause:* If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Act. All other acts and parts of acts in conflict with the provisions of this Act are hereby repealed.

By Mr. May.

H. B. 114. An Act realting to old age assistance, repealing section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, and Chapters 56 and 57 of the Acts of 1938 and abolishing existing liens and reimbursement agreements executed by old age assistance recipients.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, and chapters 56 and 57 of the Acts of 1938,

compiled as sections 3766bb-11a and 3766bb-11b of Baldwin's Kentucky Statute Service, May, 1938, are repealed.

§ 2. All liens created and all reimbursement agreements executed pursuant to section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, not enforced by collection at the time this Act takes effect, are void.

§ 3. Since the liens created by the present laws work a hardship on many aged persons in need of old age assistance, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Ward.

H. B. 115. An Act creating a division of markets in the Department of Agriculture, Labor and Statistics, defining its powers, and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby created a Division of Markets in the Department of Agriculture, Labor and Statistics. The Division shall be under the supervision of the Commissioner of Agriculture, Labor and Statistics, and shall consist of such personnel as is determined and appointed by the Commissioner, provided that such appointments shall be subject to the provisions of the Reorganization Act of 1936.

The Division shall be headed by a director, who shall receive a salary not exceeding $3,900.00 annually, to be appointed by the Commissioner of Agriculture, Labor and Statistics, subject to the approval of the Governor.

§ 2. The Division of Markets shall have the following powers and duties:

(a) Promote, foster and encourage intelligent and orderly marketing of agricultural products, to eliminate speculation and waste therein, and to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done.

(b) Stress promotional market efforts and make available to farmers practical assistance in setting up farm co-operatives.

(c) The functions of the Division shall be carried out through any means that will tend to accomplish practical benefits in the marketing of agricultural products.

§ 3. The Division is designated the state agency for the negotiation of co-operative marketing agreements under laws or regulations of the federal government providing for such state agency, unless another agency is specifically designated by the federal government.

§ 4. WHEREAS, there is an urgent need for the creation of a Division of Markets to assist the farmers of the Commonwealth in finding the most profitable markets for their agricultural products and the general welfare will be served by the creation of such a Division, an emergency is hereby declared to exist and this Act shall take effect on and after its passage and approval by the Governor.

By Messrs. Bach and Scheben.

H. B. 116. An Act to promote the public welfare by providing aid to the needy blind.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act: "Aid to the Needy Blind" means money payments and such services

as may be necessary to provide for the welfare of the needy blind;

"Applicant" means a person who has applied for Aid to the Needy Blind, or for whom Aid to the Needy Blind has been applied for under the provisions of this Act;

"Recipient" means a person who is receiving Aid to the Needy Blind under the provisions of this Act;

"State Department" means the State Department of Welfare created by the Governmental Reorganization Act of 1936;

"Needy Blind" means a person, or persons, who has no vision, or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential, or whose vision because of eye disease will become so defective without corrective or preventive treatment that ordinary and essential activities cannot be performed, and who is unable to provide himself, or themselves, or who does not have otherwise provided for him, or them, a reasonable subsistence compatible with decency and health, and/or is unable to provide himself, or themselves, or have provided for him, or them, specialized services for corrective or preventive treatment for blindness;

"Ophthalmologist" means a physician skilled in the treatment of defects and diseases of the human eye licensed to practice medicine and who is actively engaged in the treatment of diseases of the human eye.

§ 2. *Eligibility for Aid to the Needy Blind.* Aid to the Needy Blind shall be granted to any needy blind who:

(a) Has resided in the State for one year immediately preceding the application for Aid to the Needy Blind, or who was born within the State within one year immediately preceding the application for Aid to the Needy Blind, if the child's parent, or parents, has resided in the State for one year immediately preceding the birth of the child;

(b) Is a resident of the State at the time of receiving Aid to the Needy Blind;

(c) Is not at the time of receiving Aid to the Needy Blind an inmate of any public or private institution of a custodial or eleemosynary nature, except in case of temporary medical or surgical care in a hospital;

(d) Has not voluntarily made an assignment or transfer of property for the purpose of rendering himself eligible for Aid to the Needy Blind as provided for in this Act;

(e) Is not receiving Aid to Dependent Children as provided for in the Aid to Dependent Children Act nor is receiving Old Age Assistance as provided for in the McCarthy-Ramey Old Age Assistance Act. A person receiving either Aid to Dependent Children or Old Age Assistance may, however, make application for Aid to the Needy Blind, but Aid to the Needy Blind as defined in this Act, if granted, shall not begin until he ceases to receive Aid to Dependent Children or Old Age Assistance.

§ 3. *Amount of Aid to the Needy Blind to be Granted.* The amount of Aid to the Needy Blind which shall be granted to, or for, any needy blind shall be determined with due regard to the resources and requirements of the individual and the conditions existing in each case and shall be sufficient, when added to all other income, resources, and support available to the needy blind, to provide such needy blind with a reasonable subsistence compatible with decency and health, and/or specialized services for corrective or preventive treatment for blindness, including the necessary traveling expenses to and from medical center.

§ 4. *Duties of the State Department.* (a) The State Department shall: (1) have the administration of all funds appropriated or made available to it for the purposes of this Act; (2) receive and administer such Federal Funds as are made available and shall prepare and submit such reports

as may be required by the Federal Government with respect to Aid to the Needy Blind; (3) develop plans and policies for Aid to the Needy Blind in cooperation with the Federal Government; (4) develop standards of service for the administration of Aid to the Needy Blind in the State; (5) coordinate the functions of the several Divisions in the State Department to provide specialized services to any applicant and recipient where such specialized services are deemed necessary for the welfare of the needy blind; (6) initiate or cooperate with other agencies in developing specialized service for the prevention of blindness, the conservation of vision, and the vocational and social adjustment for the needy blind and other blind persons; (7) cooperate with the Division of Personnel Efficiency in the Department of Finance in establishing standards for personnel employed in the administration of this Act and these personnel standards shall meet the minimum requirements of the Social Security Board in the Federal Government, and the State Department shall make rules and regulations necessary to maintain personnel standards; (8) designate ophthalmologists to examine applicants and recipients for the purpose of determining blindness in the individual; (9) arrange for the examination of applicants and recipients by fixing and paying fees to the designated ophthalmologists; (10) promulgate rules and regulations stating in terms of ophthalmic measurements the amount of visual acuity and/or the extent of eye disease and still be eligible for Aid to the Needy Blind; (11) provide such forms, records and reports as may be necessary with respect to the administration of this Act.

(b) The State Department shall make such rules and regulations and take such action as may be necessary or desirable from time to time for the efficient administration of this Act and these rules and regulations shall provide for uniform practice of this Act throughout the State.

(c) The Commissioner of Welfare shall appoint in ac-

cordance with the Governmental Reorganization Act of 1936 such personnel, including ophthalmologists, as are necessary to properly administer this Act.

§ 5. *Confidential Nature of Records.* Notwithstanding any other provisions of law it is hereby provided that all applications and records concerning any applicant and recipient and the name of any applicant and recipient shall be confidential, and the State Department shall establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files and communications of the State Department.

§ 6. *Right of Appeal.* An applicant or a recipient of Aid to the Needy Blind as provided for in this Act, who shall be dissatisfied with the decision on his application, or because of delayed action on his application, for such Aid to the Needy Blind or the amount of Aid to the Needy Blind granted to him shall have the right to appeal to the State Department in the manner and form prescribed by rules and regulations of the State Department, and the State Department shall establish rules and regulations which shall provide that on receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing.

§ 7. *Aid to the Needy Blind Not Assignable.* All Aid to the Needy Blind granted under this Act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the State.

§ 8. *Short Title.* This Act shall be known as the Aid to the Needy Blind Act.

§ 9. *Repeal of Existing Laws.* All laws and parts of laws in conflict with any of the provisions of this Act are hereby expressly repealed.

§ 10. *Separability Clause.* It is hereby declared to be the intent of the Legislature that if this Act can not take effect in its entirety because any section, paragraph, clause,

or word, of this Act shall be adjudged to be unconstitutional, such adjudication shall not affect the remaining portion of this Act and said remaining portion shall be given full force and effect as completely as if the part held unconstitutional had not been included.

By Mr. Simpson.

H. B. 117. An Act relating to revenue and taxation and more especially repealing, amending, and re-enacting section 4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and repealing sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be and the same is hereby repealed, amended, and re-enacted so that when re-enacted said sections shall read as follows:

Rate of Tax on Spirits.—There is hereby levied upon the use, sale, or distribution by sale or gift a tax of one dollar and twenty cents ($1.20) on each wine gallon of spirits, and a like or proportional rate per gallon on all spirits used, sold, or distributed in any other container of more or less than one (1) gallon; provided, however, that the rate of tax on spirits in retail containers of one-half pint shall be eight cents (8c). Nothing herein contained shall affect or be deemed to affect or to repeal, amend, or modify any tax imposed by any provisions of Chapter 149 of the Acts of the General Assembly of 1934, or to impose any tax on distilled spirits or wine purchased by holders of and used in the manner authorized by holders of special licenses provided in subsections two and

three of section thirty of Chapter Two of the Acts of the 1938 Regular Session of the General Assembly.

§ 2. *Tax on Use and Sale of Inventories on Hand.*—On spirits acquired but not disposed of by a wholesaler or by a retail outlet before the effective date of this Act upon which the tax imposed by sections 4281c-4 and 4281c-25, Carroll's Kentucky Statutes, Baldwin's 1936 Revision has been paid, and to which Kentucky revenue stamps have been affixed in the amount of one dollar and four cents ($1.04) on each wine gallon, and a like or proportional rate per gallon on any other container of more or less than one (1) gallon or seven cents ($0.07) in the case of retail containers of one-half pint, there is hereby imposed for the use or first sale or distribution by gift or sale thereof, an additional tax of sixteen cents (16c) on each wine gallon used, sold or distributed by gift or sale and a like or proportional rate per gallon on spirits used, sold, or distributed in any other container of more or less than one (1) gallon. Payment of the tax imposed by this section must be evidenced by the affixing of Kentucky revenue stamps on the retail containers of such spirits, which stamps shall be purchased from and issued by the Department of Revenue and affixed in such manner as the Department of Revenue may prescribe. Such affixation must be made not later than 1:00 a.m. on the effective date of this Act.

§ 3. *Sections Repealed.*—That sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be and the same are hereby repealed.

§ 4. *Declaring an Emergency.*—The present State revenue does not meet the needs for maintenance of the State government, its agencies, subdivisions, and institutions, and an emergency is hereby declared to exist. This Act, upon its passage and approval by the Governor, shall become effective as soon as administratively practicable, which is hereby declared to be at 1:00 a.m. on the first Monday after

the expiration of thirty (30) days from the date on which it is signed by the Governor.

By Mr. Chapman.

H. B. 118. AN ACT providing that no person shall kindle or start any fire in a public or private road, on or in the woods adjacent thereto, without keeping said fire under control, and totally extinguishing same upon leaving; and providing a punishment for any one found guilty of violating this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

No person shall, or by the directions of his servants, agents, or guides, kindle or start any fire in or near a public or private road, or in any wooded area or forest adjacent thereto in this Commonwealth unless such fire shall be under the control of said persons at all times, and said person shall, before leaving said fire, totally extinguish it.

Any person or persons violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) or imprisonment in the county jail not more than ninety (90) days, or both fine and imprisonment, within the discretion of the court or jury trying the case.

By Mr. Brown.

H. B. 119. An Act to repeal, amend and re-enact section 4281c-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to revenue and taxation, and more especially to the fixing of the rate of taxation on the use, sale or distribution of wine; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 4281c-3, Carroll's Kentucky Statutes, 1936 Revision, be and the same is hereby repealed, amended, and re-enacted so that when re-enacted it shall read as follows:

Rate of Tax on Wine.—There is hereby levied upon the use, sale or distribution by sale or gift a tax of Twenty-five Cents ($0.25) on each gallon of wine, and a like or proportional rate per gallon on the wine used, sold or distributed in any other container of more or less than one gallon; provided that in no event may the tax be less than Two Cents ($0.02) on the sale or distribution of any retail container of wine. Provided, however, that the provisions of this Act shall not apply to the manufacture, sale, gift, or distribution of any wine manufactured, sold, given away or distributed and used solely for Sacramental purposes.

§ 2. *Declaring an Emergency.*—Whereas, the present state revenue does not meet the immediate needs of the maintenance of the state government, its agnts and subdivisions, an emergency is hereby declared to exist, and this act shall become a law and be effective as soon after its passage and approval by the Governor as administratively practicable, which is hereby declared to be thirty (30) days after this act is signed by the Governor.

By Mr. Neikirk.

H. B. 120. An Act to provide moral instruction for children in connection with the public schools.

Said bill is as follows, viz.:

"Whereas, in order that a free and independent people may enjoy to the fullest the blessings of liberty, happiness, and

prosperity, it is necessary that people maintain a high standard of morals; and

"Whereas, the Preamble of the Constitution of Kentucky, states in part, that, we, as a people are, 'grateful to Almighty God for civil, political, and religious liberties—'; and

"Whereas, these civil, political and religious liberties are best secured and furthered by providing moral instruction for pupils in connection with the Public Schools of the State; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

"§ 1. *Boards of Education may provide for moral instruction.* The Boards of Education of independent and county school districts are hereby authorized and empowered to provided for the moral instruction of pupils subject to the jurisdiction of such boards of education in the manner hereinafter provided in this act.

"§ 2. *Survey of religious preferences may be made.* The board of education of each school district may authorize a complete survey of the church affiliations, or preferences, of all the pupils attending the public schools within said district and ascertain therefrom those pupils who desire this instruction and have the consent of parent or guardian for said instruction as provided in this act.

"§ 3. *Time and place of instruction to be determined by boards of education.* On a day in each week, to be fixed by said boards of education, such pupils, as express desire for moral instruction may be excused for at least one hour, for the purpose of attending their respective places of worship, or some other suitable place, there to receive moral instruction in accordance with the religious faith or preference of the said pupils.

"§ 4. *Rules and regulations.* Each school board is authorized to adopt rules and regulations for carrying into effect the provisions of this act and to make such arrangements with the respective persons in charge of the moral instruction as the said board deems necessary and advisable.

"§ 5. *Credit for time spent in moral instruction.* Pupils taking advantage of the instruction as provided in this act and attending said classes for moral instruction therein at the time specified and for the period fixed shall be credited with the time so spent as if such pupils had been in actual attendance in school.

"§ 6. *Pupils to remain in school or be present in the aforesaid classes.* Any pupil who for any reason fails to take advantage of the aforesaid moral instruction shall remain in school during the time when such instruction is being given as herein provided, but such child shall not receive any educational advantage over children receiving such instruction.

"§ 7. *Expense.* The aforesaid moral instruction shall be given without expense to any board of education, beyond the cost of the original survey, hereinbefore mentioned.

"§ 8. *Intent of act.* It is hereby declared to be the intent of the General Assembly of Kentucky that this act shall be permissive and not mandatory."

By Mr. Lamkin.

H. B. 121. AN ACT to repeal, amend and reenact Chapter 16 of the Acts of the General Assembly of the Commonwealth of Kentucky in Extraordinary Session which was begun in the City of Frankfort, Kentucky, on Monday, March 30, and ended on Saturday, May 9, 1936, now codified as Section 4238 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and Declaring an Emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 16 of the Acts of the General Assembly of the Commonwealth of Kentucky in Extraordinary Session, which was begun in the City of Frankfort, Kentucky, on Monday, March 30, and ended on Saturday, May 9, 1936, now codified as Section 4238 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended and reenacted so that said section as amended and reenacted shall read:

"(a) There is imposed a tax of four dollars ($4.00) on each verdict of a petit jury in civil cases in circuit court;

"(b) There is imposed a tax of three dollars and fifty cents ($3.50) on each marriage license;

"(c) There is imposed upon the filing and registering of a plat and certificate of survey, and issuing and recording patent thereon one charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the register's office, a tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and a tax of five dollars ($5.00) for each survey in excess of ten (10) acres;

"(d) There is imposed a tax of two dollars ($2.00) on each appeal to the Court of Appeals;

"(e) There is imposed a tax of one dollar ($1.00) on each deed or power of attorney to convey real or personal estate; on each mortgage or conveyance of real or personal property; on each lien or conveyance of coal, oil, gas or other mineral right or privilege; but no tax shall be paid on any chattel mortgage unless the amount thereof exceeds two hundred ($200.00) dollars;

"(f) There is imposed a tax of one dollar ($1.00) for issuing a land warrant, for each official certificate with seal of office affixed.

"(g) There is imposed a tax of fifty cents (50c) as follows: On each original action or proceeding in the circuit court, commencing with or without original process, and on each original action or proceeding in other courts, when the amount in controversy, exclusive of interest and costs, exceeds fifty dollars ($50.00); and on each appeal to the circuit or quarterly court and on each traverse of forcible entry or detainer and on each proceeding to reverse a judgment;

"(h) There is imposed a tax of fifty cents (50c) on the seal of court required by law to keep a seal except for the purpose of issuing the license authorized by the State;

"(i) There is imposed a tax of fifty cents (50c) for a copy of a plat; for a copy of a course and distances of any patent or survey; and for a copy of an entry or land warrant;

"(j) There is imposed a tax of twenty-five cents (25c) for filing a caveat; for filing a copy of judgment of a court in a case of a caveat, mandamus or other proceeding affecting the land office, or the duties of the register; and for a copy of an assignment;

"(k) There is imposed a tax of two cents (2c) for each twenty words of: a copy of a caveat; a copy of any writing not specifically provided for.

"Said tax shall be due and payable when said processes or instruments are filed or issued, or copies thereof furnished; provided this act shall not be so construed as to require any tax upon a deed of the release of a lien retained in a deed or mortgage."

§ 2. All revenues derived under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State govern-

ment and its agencies, an emergency is declared to exist, and this Act shall become a law and be effective on its passage and approval by the Governor.

By Mr. Shaikun.

H. B. 122. An Act providing for the recovery of damages by persons bitten by dogs and creating a liability of owners of such dogs.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The owner of any dog which shall bite any person while such person is on or in a public place or lawfully on or in a private place, including the property of the owner of such dog, shall be liable for such damages as may be suffered by the person bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness. A person is lawfully upon the private property of such owner within the meaning of this act when he is on such property in the performance of any duty imposed upon him by the laws of the State or by the laws or postal regulations of the United States of America or when he is on such property upon the invitation expressed or implied of the owner thereof.

By Mr. Dickson.

H. B. 123. AN ACT relating to revenue and taxation, and repealing, amending, and re-enacting section one (1) of Chapter 63 of the Acts of the 1938 Regular Session of the General Assembly.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.*—Whenever used in this Act unless the context requires otherwise

1. "Person" shall mean and include any individual, firm, partnership, association, corporation or other group or combination acting as a unit.

2. "Clerk" shall mean the clerk of the county court in the county where the business is to be conducted or the privilege exercised.

3. "Department" shall mean the Department of Revenue.

§ 2. *Issued by Clerk.*—All licenses shall be granted by the clerk of the county court of the county in which the business is proposed to be conducted and shall be issued in writing and on forms to be prepared by the Department of Revenue and furnished to each county court clerk from time to time as may be necessary for use in his office.

§ 3. *Expiration Date of Licenses; Abatement of Fees for Fractional Part of Fiscal Year.*—All licenses to be issued under this Act shall be obtained and the license tax shall become due and payable on July first of each year and shall expire on June thirtieth of each year. When any person shall apply for any license after July first of any year, he shall be charged an amount equal to as many twelfths of the annual license tax as there are calendar months remaining (including the month in which the license is granted) until the following July first.

§ 4. *Persons Who Shall not be Granted License; Penalty.*—Any person who applies for a license who has engaged or who refuses under oath to say that he or his agents have not engaged in any business or occupation within six months next preceding the date of application therefor, for which a license was required, without having had the license required, except as otherwise provided in this Act shall in addition to the regular license tax, pay a sum equal to Twenty

per cent (20%) thereof. Any person making under oath a false statement in securing a license shall be deemed guilty of a misdemeanor.

§ 5. *Administration.*—The administration of this Act is hereby vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the administration and enforcement of this Act. The Department is also authorized to require any person licensed under section 10 subsection 1 of this Act to supply such information concerning his business, sales or the privileges exercised as is deemed reasonably necessary for the regulation thereof to protect the revenues of the Commonwealth. Failure on the part of the licensee mentioned in section 10 subsection 1 to comply with the provisions of this Act, or any rules or regulations promulgated thereunder or to permit an inspection of the licensed premises by an authorized agent of the Department at any reasonable time, shall be grounds for the revocation of such license by the Department of Revenue after due notice and a hearing at its offices. A conferee may in the discretion of the Commissioner of Revenue, be appointed to conduct any hearing, receive evidence and hear argument, and embody same in a report to the Commissioner of Revenue or the Kentucky Tax Commission. Appeals may be had in accrodance with section five (5) of Chapter Four (4) of the Acts of the General Assembly, 1938 First Extraordinary Session. No new license shall be issued to anyone whose license has been revoked for a period of one (1) year after revocation.

§ 6. *Department to Keep Count of License Forms Furnished Clerks; Duty of Clerks; Receipts Credited to General Fund.*—The Department shall keep a strict account against each clerk of the license forms furnished him and it shall be the duty of each clerk annually to account for all license forms furnished him by the Department.

The records kept by the Clerks of licenses provided for

in this Act shall be open to inspection by a properly authorized agent of the Department at any reasonable time and it shall be the duty of the clerk to account for all monies received and license forms furnished him as required by the Department.

The county court clerk shall be allowed Five per cent (5%) commission on all license taxes collected and accounted for by him, which commission shall be in addition to the One Dollar ($1.00) fee provided in section 1720 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision. The clerk shall pay on or before the tenth (10th) of each month to the Department all monies above Five per cent (5%) collected under this Act during the month previous and for failure to do so shall in addition pay the penalty provided in section 4701a-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision and shall also send to it at the same time such reports as are required by the Department. The Department shall transmit all such monies, as required by law, for deposit with the State Treasurer to be credited to the General Fund.

§ 7. *License not Valid Unless Upon Department of Revenue Form; Duty of Clerk; Transfer.*—No license shall be valid or confer any authority unless the same be issued upon forms furnished for that purpose by the Department and no clerk shall issue any license except upon forms furnished to him by the Department, and under the seal of the court; nor shall any license be transferable either from one person to another or from one location to another except as provided herein.

§ 8. *License to Specify Place; Death of Licensee; Transfer.*—All applicants for licenses shall set out in their application the location of the premises to be licensed stating the county, city, state and number, if the premises has a street number, and otherwise such apt description as will reasonably indicate the location where it is proposed to carry on the business or exercise the privilege, except as otherwise pro-

vided. No one except the person named in the license shall sell under, or exercise the privilege granted, except as otherwise provided nor shall the privilege granted be exercised at any place other than that mentioned in the license except as otherwise provided.

In case an act of God or a casualty for which the licensee was not responsible renders the licensed premises, for all practical purposes, unfit for use by the licensee, the clerk may, under regulations to be promulgated by the Department, if such action is necessary to attain justice, change the license to authorize continuance of the business at other premises by an endorsement thereon stating the new premises at which the business may be conducted or the privilege exercised under such transferred license. No such transfer shall be made unless the licensee shall have filed a written statement under oath of the reasons for the necessity of transfer. The clerk shall receive a fee of Twenty-five Cents (25c) for such endorsement and for mailing a notice of the endorsement to the Department upon a form to be prescribed by the Department.

Whenever any person to whom a license has been granted and who has paid the tax thereon shall die or sell his stock or place of business before the expiration of the license, the clerk in the county in which the business is conducted or the privilege exercised may renew the license to the personal representative, or the person or persons inheriting the business, or the purchaser of the stock or place of business without the payment of any additional tax for the unexpired period. The application for the renewal or granting thereof shall be in the same manner and subject to the same conditions as prescribed above in the change of address of a licensee. The clerk shall receive a fee of Twenty-five Cents (25c) for amending the license and notifying the Department upon forms prescribed therefor.

§ 9. *Penalties for Violations of this Act.*—Any person

who shall engage in any business or sell or offer to sell or have on hand for the purpose of sale any article or exercise any privilege for which a license is required by this Act before procuring the license and paying the tax thereon, as required by law, shall be deemed guilty of a misdemeanor and upon conviction be fined a sum of not less than Twenty-five Dollars ($25.00) and not more than Two Hundred Dollars ($200.00) for each offense unless otherwise specifically provided.

Any clerk who shall violate any provisions of this Act or any reasonable rule or regulation promulgated by the Department hereunder shall be deemed guilty of a misdemeanor and upon conviction be fined a sum not less than Fifty Dollars ($50.00) and not more than One Thousand Dollars ($1,000.00) for each offense.

§ 10. That section one (1) of Chapter Sixty-three (63) of the Acts of the 1938 Regular Session of Kentucky General Assembly be and the same is hereby repealed, amended and re-enacted so that when re-enacted said section shall read as follows:

Licenses.—No person shall engage in any of the occupations or sell any of the articles or exercise any of the privileges named in this Act until such person shall have paid to the clerk of the county wherein such person is engaged in such occupation or in selling such articles or in exercising such privilege the license tax herein prescribed and obtained the license therefor.

Provided, however, that this section shall not be constructed to impose a tax on any county, state, or community fair association or corporation or similar enterprise, or upon the agent or concessionaire of any such association, or corporation operating within the grounds or rooms devoted to a festival or fair of any such association, or corporation which shall engage in any of the occupations or sell any of the articles or exercise any of the privileges named in this Act

for a period of not exceeding one (1) week in any calendar year without profit to the members, stockholders of, or other person connected with any such association or corporation. It is further provided that this exemption shall not be deemed or construed to permit such association, corporation or similar enterprise to possess cigarettes in packages, boxes or retail containers upon which the tax provided in section 4281e-2, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, has not been paid.

Subsection (1). *Cigarettes.*—For the privilege of possessing in this state cigarettes upon which the Kentucky cigarette tax has not been paid and the Kentucky tax stamps not affixed to the package, box, or container, as required by section 4281e-1 through section 4281e-16, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, or for the privilege of selling in this state to another person for resale in this Commonwealth cigarettes upon which the Kentucky cigarette tax referred to above has been paid, there is hereby imposed a license fee of Twenty-five Dollars ($25.00) per annum. The word "possessing" as used herein shall not include the transportation of cigarettes in interstate commerce nor shall it include any temporary holding in good faith by a transportation agency prior to shipping out of the state or prior to delivery to consignee or his agent but it shall include among other things possession for purposes of sale, gift or use within the state after the interstate journey is ended.

It is hereby declared to be the legislative intent that any person or transient who engages in any of the businesses or exercises any of the privileges mentioned in this subsection or subsection 3 of this section from a wagon, push cart, motor vehicle, truck, or other similar contrivance in which the articles named in such subsections are transported from place to place and sold therefrom shall procure a license from the clerk in each county where the business is to be conducted or the privilege exercises for each and every wagon, push cart,

motor vehicle, truck, or other similar contrivance so used in each county of this Commonwealth wherein the person is engaged in the business mentioned or the privilege exercised. It is further provided that notwithstanding the provisions of section eight (8) of this Act the license shall indicate an apt description of the wagon, push cart, motor vehicle, truck or other similar contrivance from which such business is to be conducted or such privilege exercised. Whenever any person to whom the licenses referred to in this subsection or in subsection three (3) of this section has been granted and who has paid the required license tax thereon shall change the wagon, push cart, motor vehicle, truck, or other similar contrivance for which such license was originally granted, the clerk may amend such license in accordance with regulations of the Department so as to permit the continued operation of the business. For such amendment, the clerk shall receive a fee of Twenty-five Cents (25c) from the licensee.

Subsection (2). *Restaurants.*—for each restaurant serving meals, Ten Dollars ($10.00) per annum. The word "restaurant" shall be construed to mean and include all places or establishments wherein hot food and/or hot drink is served to the general public.

Subsection (3). *Soft drinks and ice cream, retail dealers.*—For each retail outlet of soft drinks or ice cream, Five Dollars ($5.00) per annum. Soft drinks, within the meaning of this Act, shall be construed to be any beverage of less than one-half of one per cent (½%) alcohol, whether bottled or from a fountain. In cases where ice cream and soft drinks are sold by the same retail outlet, one license tax of Ten Dollars ($10.00) per annum only shall be charged.

Subsection (4). *Theaters.*—For each theater or public exhibition or performance, Twenty Cents (20c) per seat per annum, the minimum charge under this Act to be Ten Dollars ($10.00) per annum. A theater within the meaning of

this Act shall be construed to be any building wherein public exhibitions or performances, including moving pictures, are given, and at which a charge is exacted from those attending same. This paragraph shall not apply to chautauquas, to fairs, or to buildings owned or operated by religious, educational or charitable organizations in which public exhibitions or performances are given by such organizations, but shall apply if at any time non-religious, non-educational or non-charitable organizations or persons use the same.

Subsection (5). *Billiard or pool tables or bowling alleys.*—For each billiard or pool table or bowling alley, irrespective of size, where a fee is charged and collected, directly or indirectly, Thirty Dollars ($30.00) per annum for the first table or alley and Five Dollars ($5.00) per annum for each additional table or alley.

Subsection (6). *Tobacco Products; Retail Dealers.*—For each place at which tobacco products are sold at retail Ten Dollars ($10.00) per annum. The words "tobacco products" shall mean and include among other things such things as cigarettes, snuff, cigars, smoking tobacco, and chewing tobacco by whatever name called but shall not mean nicotine or any by-product of tobacco which is used for medicinal, chemical, or manufacturing purposes.

§ 11. All laws or parts of laws in conflict herewith are repealed to the extent of such conflict.

By Mr. Bronston.

H. B. 124. AN ACT to amend Section One Hundred and Forty-Seven of the Constitution of Kentucky so as to legalize the use of Voting Machines in such counties as may so desire.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That upon concurrence of three-fifths of all members elected to each House, the Yeas and Nays be taken thereon and entered in full in their respective journals, Section One Hundred and Forty-Seven of the Constitution be, and is amended and revised so it shall read as follows:

The general assembly shall provide by law for the registration of all persons entitled to vote in cities and towns having a population of five thousand or more; and may provide by general law for the registration of other voters in the State. Where registration is required, only persons registered shall have the right to vote. The mode of registration shall be prescribed by the general assembly. In all elections by persons in a representative capacity, the voting shall be viva voce and made a matter of record; but all elections by the people shall be by secret official ballot, furnished by public authority to the voters at the polls, and marked by each voter in private at the polls, and then and there deposited. Provided that counties so desiring may use voting machines, these machines to be installed at the expense of such counties. The word "elections" in this section includes the decision of questions submitted to the voters, as well as the choice of officers by them. The first general assembly held after the adoption of this Constitution shall pass all necessary laws to enforce this provision, and shall provide that persons illiterate, blind, or in anyway disabled, may have their ballots marked and/or voted as herein required.

By Mr. Perkins.

H. B. 125. An Act to amend the Constitution of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Constitution of Kentucky be amended as follows:

No provision in the Constitution of Kentucky shall bar or limit the General Assembly from enacting and providing for the enforcement of a compulsory system of Workmen's Compensation Insurance, provided that said system shall not embrace or include domestic, farm or steam railroad employees.

§ 2. This amendment shall be submitted to the people in the manner provided by sections 256 and 257 of the Constitution of the Commonwealth of Kentucky and section 1459 of Carroll's Kentucky Statutes, 1936 edition.

By Mr. Wagner.

H. B. 126. AN ACT repealing, amending and re-enacting Section 4356t-8 Kentucky Statutes, and being Section 8 of Chapter 17 of the Acts of 1920 as amended, repealed and re-enacted in Chapter 178 of the Acts of 1928.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4356t-8 Kentucky Statutes, being Section 8 of Chapter 17 of the Acts of 1920 as amended, repealed and re-enacted in Chapter 178 of the Acts of 1928, be, and the same is hereby repealed, amended and re-enacted so that said Section as so repealed, amended and re-enacted shall read as follows, to-wit:

"When any primary road heretofore or hereafter designated passes through an incorporated city or town of this Commonwealth, the cost of future construction, maintenance and up-keep thereof shall be paid by the State Highway Commission as is the cost of such road or roads constructed outside of such city or town. The State High-

way Commission, or other body of authority exercising the functions of said Highway Commission as now constituted, shall cause such streets, for the same width as that constructed immediately outside the city limits, to be constructed and maintained according to the established grades for construction and drainage of such streets or thoroughfares within such cities or towns. Where no grades have been established in such cities or towns, the State Highway Commission is hereby authorized to establish grades for the purpose of so constructing and maintaining such streets and thoroughfares. Provided, that where, for the general safety of the public and efficiency of travel the State Highway Commission deems it necessary, it may provide and construct a surface wider than that without the city limits. And provided further, if it is deemed necessary by them for the proper drainage of the street or thoroughfare the State Highway Commission may construct and maintain curbs, gutters, sewer intakes, catch basins and other necessary and essential appurtenances thereto. All such construction, maintenance and up-keep shall be done by or under the direction of the State Highway Commission."

§ 2. All laws and parts of laws in conflict herewith are, to the extent of such conflict, hereby repealed.

By Mr. Cox.

H. B. 127. AN ACT amending charters of cities of the fourth class, providing for the creation of a civil service commission, prescribing its duties and declaring the qualifications of its members; providing for examination of all applicants for positions as members of the police and fire departments in such cities; providing for the appointment and dismissal of policemen and firemen and providing for appeal to the Circuit Court and Court of Appeals; providing for the creation of a board of trustees of a pension fund for policemen and firemen and prescribing the duties of

such board; providing for the establishment and maintenance of a pension fund and providing for appropriations and stipulating a limitation therefor.

Said bill is as follows,. viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. DEFINITIONS. As used in this Act, the following words and terms shall have the following meaning:

(a) Regular Fire Department. For the purpose of this act, a regular fire department is defined as one having a fixed headquarters where fire-fighting apparatus and equipment is maintained, and where a fireman or firemen are in constant and uninterrupted attendance to receive and answer fire alarms.

(b) Legislative Body. Wherever in this act the term "Body" or Legislative Body" is employed, it shall be construed to mean the legislative branch of the City government.

(c) Commission. The word "Commission" shall mean the Board of Civil Service Commissioners, as established under the terms of this act.

(d) Trustees. The word "Trustees" shall mean the Board of Pension Fund Trustees, as established under the terms of this act.

(e) Pension Fund. The term "Pension Fund" shall mean the monies derived from the policemen and/or firemen and appropriations, or any other sum derived from what ever source by gift or other wise to be used for the retirement of policemen and/or firemen after the prescribed number of years of service and for the benefit of disabled policemen and/or firemen and for the benefit of widows and dependent children or dependent fathers or mothers in the case of death of a policeman and/or fireman within the scope of his employment according to the terms of this act.

§ 2. CREATION OF THE CIVIL SERVICE COMMISSION. That any city of the fourth class, which has or in which there may hereafter be established a regular police department and/or fire department, may by ordinance create a Civil Service Commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police and/or fire department.

§ 3. QUALIFICATIONS OF APPLICANTS FOR POLICE AND/OR FIRE DEPARTMENTS. The Commission shall require all applicants for appointment as members of the police and/or fire department to be examined as to their qualifications to fill the office of policeman and/or fireman, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and/or firemen. Every member of the police and/or fire department shall be a qualified voter of the city in which appointed, and be able to read and write and understand the English language, and to have such other general qualifications as may be prescribed.

No person shall be appointed a member of the police and/or fire department unless he is well known to be a man of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police and/or fire department on account of any political partisan service rendered by him or on account of political sentiments or affiliations, or who is over forty (40) years of age, unless the applicant has had as much as five years experience as policeman or fireman and is not over fifty-five (55) years of age. No member of the police and/or fire department shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and/or fire department shall depend solely upon the ability and willingness of a person to comply with the rules of said department, and to perform the duties of said department.

No appointment to or continuance as a member of a police and/or fire department shall be as a reward for political activity nor be obtained by political service or contribution to campaign funds, nor shall any member of said department pay or collect any assessments made by political organizations, or contribute to political campaign funds, or be unduly active in politics, or work for the election of candidates for office. The examination and qualifications provided for in this Act shall not apply to the members of the regular police and/or fire departments at this time who have been continuously in said service for a period of one year. Members of police and/or fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of this act shall not prevent the city from decreasing the number of policemen and/or firemen as may be deemed proper from time to time, and providing further that in the event the city decreased the number of policemen and/or firemen, the youngest members in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

§ 4. PERSONAL OF THE COMMISSION. The Mayor, by and with the approval of the legislative body, shall appoint three citizens who have been tax payers and voters of the city for five (5) years previous to their appointment, and who shall not be less than thirty (30) years of age, who shall constitute the Civil Service Commission of said city, such appointees shall originally be appointed for one year, two years and three years, respectively, and the successors of such appointees shall be appointed in like manner, each for a period of three years. Any member of the Civil Service Commission shall be eligible for reappointment. Vacancies shall be filled in the same manner as appointments of said commissioners are made, providing that any person appointed to fill a vacancy shall serve only to the end of the term of the

commissioner whose office was vacated. Said commissioners shall elect one of their members as chairman and one as secretary of the Civil Service Commission. Each of said commissioners shall qualify by taking the oath as prescribed by the Constitution of Kentucky.

5. POWERS AND DUTIES OF THE CIVIL SERVICE COMMISSION. Said Civil Service Commission shall conduct an examination of persons for appointment to the police and/or fire department each time a vacancy shall occur in said department. The Mayor shall notify the commissioners each time a vacancy occurs in either of said departments and said commissioners shall within the two weeks following the receipt of such notice hold an examination for persons seeking appointment to such vacancy, after giving notice at least five days prior to the holding of said examination in some newspaper of general circulation in the city. Within one week following the holding of said examination, said commissioners shall certify to the legislative body, the names of the three persons receiving the highest grades. The legislative body may appoint any one of said three persons to said department. Provided, however, that in the event a vacancy thereafter occurs in said department, or additions thereto of regular or substitute firemen and/or policemen are made, within one year following the certification of said names, the legislative body shall fill said vacancy or make such addition from the list of names thus certified. The commissioners shall make all rules and regulations for the proper conduct of their office.

§ 6. REMOVAL OF POLICEMEN AND/OR FIREMEN.—No member of the police and/or fire department shall be removed from the department, or reduced in grade, upon any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted for the department. Any person may prefer charges against a member of the police and/or fire department, which must be filed in

the office of the Mayor, who shall, thereupon, communicate said charges without delay to the legislative body. Said charges must be written, signed by the person making such charges, and must set out with clearness and distinctness each and every charge. It shall also be the duty of the Mayor and each member of the legislative body, whenever probable cause appears, to prefer charges against any member of the police and/or fire department, whom he believes to have been guilty of any conduct justifying his removal or punishment, in the interest of public order. The charges thus filed shall be written, and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issues so presented. All charges against members of the police and/or fire department shall be filed with the clerk of the legislative body, and within three days after said filing, the legislative body shall proceed to hear and examine said charges; provided two days before said hearing, the member of the police and/or fire department accused has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three days after said charges are filed with the clerk of said legislative body. The legislative body will have the power to summon and compel the attendance of witnesses at all hearings or sittings, by said body, upon subpoena issued by the clerk of said body, and served upon witnesses by any officer authorized to serve subpoenas from any court of justice in the county, and said body shall have the power of a justice of the peace, to punish for contempt. The member of the police and/or fire department accused shall have the right to have subpoenaed, in his behalf, any witness he may desire, upon furnishing their names to the clerk of said body, and the action and decision

of said body on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose, and the written charges filed in the matter shall be preserved and securely attached to the book containing the legislative body's decision.

In cases where the Mayor has probable cause to believe that a member of the police and/or fire department has been guilty of any conduct justifying removal or punishment he may suspend said member from duty, or from both pay and duty, pending said trial, and said member shall not be placed on duty, or allowed pay thereafter, until the charges are heard by the legislative body. The said body shall fix punishment against a member of the police and/or fire department found guilty of any chrage under this Act by a reprimand or suspension for any length of time in their judgment not to exceed six months or by reducing the grade, if the accused be chief or other officer, or by combining any two or more of said punishments, or by removal or dismissal from the service of any such member of the police and/or fire department. No member of the police and/or fire department, except as provided in this act, shall be reprimanded, removed, suspended or dismissed from the department until written charges have been made or preferred against him, and a trial had as herein provided.

§ 7. APPEALS TO CIRCUIT COURT AND COURT OF APPEALS. — Any member of the police and/or fire department who shall be found guilty by the legislative body of any charge, as hereinbefore provided, shall have the right to appeal to the circuit court of the county in which said city may be located, provided the punishment be a suspension of more than thirty days, or a reduction in grade or a removal or dismissal from the police and/or fire department, but the enforcement of the judgment of said body under such charges shall not be suspended pending said appeal. Upon the request of the party accused, the clerk of said body shall file a certified

copy of the charges made, and the judgment or the finding of the said body in the circuit court, which transcript having been filed, the cause shall be docketed in the circuit court and tried de novo by the judge of said court. Should the clerk of said body fail to certify and transmit the transcript aforesaid to the circuit court within five days after the request is made for same, then the party aggrieved may file an affidavit in the said circuit court, setting out as fully as possible the charges made, the time of trial by said court, and the judgment of said body, together with the statements of the fact that the demand for transcript had been made upon the clerk of said body more than five days before the filing of said affidavit.

Upon the filing of said affidavit in the circuit court said cause shall be docketed in said court and the circuit court is hereby authorized to compel the filing of said transcript by said clerk, by entering the proper mandatory orders, and by fine and imprisonment, as in other cases of contempt. Such appeal shall have precedence over other business, and be taken up and determined speedily. An appeal will lie from the judgment of the circuit court to the Court of Appeals, as in other cases, provided the punishment fixed by the body be suspension for more than sixty days, reduction in grade or removal or dismissal from the department.

§ 8. BOARD OF TRUSTEES OF PENSION FUND.—There shall be organized in connection with said police and/or fire department a board to be known as the Board of Trustees of the policemen's and/or firemen's Pension Fund, which shall be composed of the Mayor of the city, City Treasurer, Police Chief and Fire Chief, and one member of Council appointed by the Mayor of said city, and said trustees shall select from their number a president and secretary. The City Treasurer shall be ex-officio treasurer of said board and custodian of its funds.

§ 9. APPROPRIATIONS, SERVICE RECORD, GIFTS AND INVESTMENT OF FUNDS.—The legislative body may appropriate out of its General fund each year an amount equal to the yearly amount paid into said Fund by the policemen's and firemen's salaries as a fund for the pensioning of any policeman and/or fireman who has served in the police and/or fire department, for at least a period of twenty years and who shall retire from the service after said period, and for the further purpose of pensioning any member of the police/or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under the age of 14 years, or either of them, of any member of the department who may lose his life while in the service and on active duty. And all rewards, fees, proceeds of gifts and emoluments that may be paid or given on account of extraordinary service of any member of either of said departments shall be paid into the treasury to the credit of the policemen's and/or firemen's pension fund. The payment so made, together with the tax levy aforesaid, shall constitute and be kept as a fund to be called the policemen's and/or firemen's pension fund, and the said Board of Trustees of the Firemen's and/or Policemen's Pension Fund is hereby declared to be the trustee of said fund, and they shall have power and it shall be their duty from time to time, to invest the same in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

§ 10. POWERS OF THE BOARD OF TRUSTEES; ASSESSMENT OF POLICEMEN AND/OR FIREMEN.—Said Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall have exclusive control and management of the said fund, and all monies donated, paid or assessed for the relief or for pensioning retired, crippled or disabled

members of the police and/or fire department, or the widows or dependent children under the age of 14 years or dependent fathers or mothers, of any member of the department killed in the service and while on duty, and shall assess each member of the police and/or fire department not exceeding three (3) per centum of the salary of such member, to be deducted and withheld from the monthly pay of each member so assessed, the same to be placed by the treasurer of each city to the credit of such fund, subject to the order of such board.

§ 11. BOARD OF TRUSTEES; RULES AND REGULATIONS.—The said Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall have all needful rules and regulations for its government in the discharge of its duties, and shall hear and decide all applications for relief or pensions under this act, and its decision on such applications shall be final and conclusive, and not subject to revision or reversal except by said Board, and a record shall be kept of all the meetings and the proceedings of said board.

§ 12. CHARACTER OF INVESTMENT OF PENSION FUNDS.—The said Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall have the power to draw such pension fund from the treasury and may invest the same, or any part thereof, in the name of the board of trustees of the Policemen's and/or Firemen's Pension Fund, in interest-bearing bonds of the United States or the State of Kentucky, or any county, or any city of the first, second, third or fourth class in the State of Kentucky, or in any securities in which trustees or guardians are permitted to invest trust or guardianship funds under the laws of this State, and all such securities shall be deposited with the treasurer of said city as ex officio treasurer of said board, and shall be subject to the order of said board.

§ 13. BOTH PRINCIPAL INTEREST TO APPLY.—Both the principal and interest of said pension fund shall be applicable to the payment of pensions under this Act.

§ 14. PENSION FOR DISABLED POLICEMEN AND/OR FIREMEN; DEPENDMENTS; AMOUNTS.—If any member of the police and/or fire department, while in the performance of his duty, becomes temporarily, totally disabled, physically or mentally for services by reason of service in such department, the Board of Trustees shall order the payment to such disabled member, monthly during such disability, not to exceed one year, from such pension fund a sum not exceeding $60.00 per month, the said amount to be determined by the Board of Trustees provided such member during the same period, is paid no salary as such member. If any member of the police and/or fire department, while in the performance of his duty, becomes, mentally or physically, permanently disabled by reason of service in either of said departments, so as to render necessary his retirement from service in either of said departments, said Board of Trustees shall retire such disabled member from service in either of said departments, provided no such retirement on account of disability shall occur unless said member has contracted said disability, while on duty in the service of said police and/or fire department; and upon such retirement the Board of Trustees shall order the payment to such disabled member of such police and/or fire department, monthly, from such pension fund, a sum equal to one-half of the monthly salary such member was receiving at the date of his retirement. If any member of said police and/or fire department shall, while in the performance of his duty, be killed or die as a result of an injury received in the line of his duty, or of any disease contracted by reason of his occupation, or shall die from any cause whatsoever, as a result of his services in either of said departments, and while in said service, or after having served for fifteen years shall die while in the service or on the retired list from any cause, and shall leave a widow or child or children under the age of 14 years, said Board of Trustees shall direct the payment from said pension fund, monthly to

such widow, while unmarried, of thirty dollars, and for each child until it reaches the age of 14 years, six dollars, and to the dependent father and mother, if said deceased member was unmarried and childless, thirty dollars, the pension to the father and mother to be paid as follows: If the father be dead, the mother shall receive the entire thirty dollars, and if the mother be dead, the father shall receive the entire thirty dollars, and if both be living each shall receive fifteen dollars.

§ 15. PAYMENT WHEN FUND INSUFFICIENT.—If, at any time, there shall not be sufficient money in such pension fund to pay each person entitled to the benefit thereof, the amount per month as herein provided, then an equal percentage of such monthly payments shall be made to each beneficiary until the said fund shall be replenished to warrant the payment in full to each of said beneficiaries.

§ 16. AMOUNT OF PENSION AFTER TWENTY YEARS SERVICE.—Any member of the police and/or fire department of such cities, having served twenty years or more in such police and/or fire department, and if his application to be relieved from such police and/or fire department, and if his application is granted, the said Board of Trustees shall order and direct that such persons be paid monthly pensions equal to one-half of the amount of the salary said person is or was in receipt of as a member of said department at the time of granting application.

§ 17. FUNERAL EXPENSE BENEFIT.—Whenever an active or retired policeman and/or fireman shall die as aforesaid, the Board of Trustees shall appropriate from the fund a sum not exceeding one hundred dollars to the widow or family for funeral expenses.

§ 18. PENSION LIMITATIONS.—No person shall be entitled to receive any pension from the said fund except a regularly retired member or a regular member in said

police and/or fire department, his widow or children under the age of 14 years, or dependent mother or father.

§ 19. TREASURER TO FURNISH BOND.—The treasurer of the Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall be the custodian of said pension fund, and shall securely and safely keep the same, subject to the control and direction of said board, and shall keep his books and accounts concerning such fund in such manner as may be prescribed by the board and the said books and accounts shall always be subject to the inspection of the board or any member thereof. The treasurer shall, within ten days after his appointment or election, execute a bond to the city with good and sufficient surety, in such penal sum as the legislative body shall direct, to be approved by the legislative body, conditioned for the faithful performance of the duties of his office, and that he will safely keep and well and truthfully account for all money and properties which may come into his hands as such treasurer, and, that, upon the expiration of his term of office he will surrender and deliver to his successor all bonds, securities, and all unexpended monies or other properties which may have come into his hands as treasurer of said fund. Said bond shall be filed in the office of the treasurer as other bonds, and may be sued on in the name of the city, for the use of said Board of Trustees, or in the name of the Board of Trustees, or any person or persons injured by a breach thereof. The premium on said bond shall be paid out of said Pension Fund.

§ 20. WARRANTS TO ISSUE FOR SUMS DUE PENSION FUND.—It shall be the duty of such officer or officers of the city as are designated by law to draw warrants on the treasurer of said city, on request in writing by said Board of Trustees, payable to the treasurer of said Board of Trustees for all funds belonging to said pension fund as aforesaid.

§ 21. WARRANTS; HOW SIGNED.—All monies ordered to be paid from said pension fund to any person or persons shall be paid by the Treasurer of the Board of Trustees only upon warrant signed by the president of said board and countersigned by the secretary thereof, and no warrant shall be drawn except by order of the board after having been duly entered on the records of the proceedings of the board.

§ 22. REPORT OF BOARD OF TRUSTEES.—The Board of Trustees shall make a report to the legislative body of said city of the condition of said pension fund, on the last meeting in August in each and every year.

§ 23. PENSION NOT SUBJECT TO ATTACHMENT.—No portion of said pension fund shall, before or after its order for distribution by the Board of Trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained or levied upon by virtue of any attachments, execution, injunction, writ, interlocutory or other order or decree, or any process or proceeding whatever issued out of or by any court of this State for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary of said fund, but said fund shall be held and distributed for the purposes of this Act, and for no other purpose whatever.

§ 24. CITY ATTORNEYS; DUTIES.—It shall be the duty of the attorneys for the various cities to give advice to the Board of Trustees of the Policemen's and/or Firemen's Pension Fund in all matters pertaining to their duties and management of said fund whenever requested, and he shall represent and defend said board as its attorney in all suits or actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board.

§ 25. ADOPTION ORDINANCE; HOW REPEALED.—In the event that the provisions of this Act are

accepted and adopted by the legislative body of a city of the fourth class, by ordinance as herein provided, the repeal of such ordinance shall not become effective unless adopted by the unanimous vote of the duly elected members of such legislative body.

Should an ordinance accepting the provisions of this Act be repealed, then the amount of money in said Pension Fund shall revert to the city in proportion to the amount paid into said Pension Fund, and to the policemen and firemen then in service in proportion to the amount so paid into said fund by each of said policemen and firemen.

§ 26. No firemen and/or policeman shall be entitled to the benefits herein provided incidental to voluntary retirement from either of said departments on account of service, unless he shall have been employed for a period of at least five years from and after the adoption of any ordinance by any city according to the provisions of this Act.

§ 27. SAVING CLAUSE.—The invalidity of any provision of this Act shall not affect the validity of any other provision.

By Mr. Moebus.

H. B. 128. An Act to repeal, amend and re-enact Section 1550-3 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to the time of primary elections and place of holding same.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1550-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted said Section shall read as follows:

On the first Saturday in August of each year between the hours of six o'clock a.m. and six o'clock p.m., there shall be held at the regular polling places in each election precinct in this state a primary election for the nomination of candidates by political parties as hereinafter defined, to be voted for at the next November election. The provisions of this act shall not apply to vacancies in offices to be filled at special elections held at times other than the regular November elections. Nominations by political parties to fill vacancies at special elections to be held on days other than the regular November election shall be made in such manner as may be determined by the governing authority of such political party in the territory in which said election is to be held.

By same.

H. B. 129. An Act to repeal, amend and re-enact Section 1469 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to the changing of hours of election.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1469, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted said Section shall read as follows:

The polls shall be opened at six o'clock in the forenoon, and kept open continuously up to and closed at six o'clock in the afternoon of the same day; and before receiving ballots of any elector, the officers of election shall cause to be proclaimed that such election is opened.

By Mr. McConnell.

H. B. 130. AN ACT to provide that persons seventy

(70) years of age or over shall be exempt from fishing license for hand pole and line fishing.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

All residents and citizens of the Commonwealth of Kentucky, who are of the age of seventy (70) years or older, may fish in any of the streams of the State with hand pole and line without obtaining a fishing license.

By Mr. Springate.

H. B. 131. An Act providing that women who are citizens and residents of Kentucky shall be exempt from obtaining a fishing license.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any woman who is a citizen and resident of this Commonwealth may fish in any of the waters of Kentucky with a hand pole and line without obtaining a fishing license.

By Mr. Shehan.

H. B. 132. AN ACT relating to the holding of sessions of Court in the 26th Circuit Court District in Kentucky and providing that regular Grand Juries be summoned and criminal and penal cases be tried at certain specified terms unless the Court in emergency otherwise directs.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 965-26 of Carroll's Kentucky Statutes of 1936 Edition, relating to the 26th Circuit Court District be, and the same is hereby amended by striking out the whole of Section 965-26, to-wit:

"Bell County—at Pineville and Middlesboro—on the first Monday in January, twenty-four juridical days; fourth Monday in February, eighteen juridical days; second Monday in April, eighteen juridical days; fourth Monday in May, twenty-four jurdical days; second Monday in September, eighteen jurdical days; first Monday in November, eighteen jurdical days.

Harlan County—at Harlan—first Monday in February, eighteen jurdical days; third Monday in March, eighteen jurdical days; first Monday in May, eighteen jurdical days; third Monday in August, eighteen juridical days; first Monday in October, twenty-four juridical days; fourth Monday in November, twenty-four juridical days.

Grand Juries shall be summoned and criminal and penal cases shall be heard only at the terms of Court held at Pineville and Middlesboro, Bell County, on the fourth Monday in February, fourth Monday in May, first Monday in November. In Harlan County, at Harlan, at the terms beginning on the third Monday in March, third Monday in August, fourth Monday in November; unless in case of emergency the Court may otherwise direct".

And in lieu thereof, inserting the following:

"Bell County—at Pineville and Middlesboro—on the first Monday in January, twenty-four jurdical days; fourth Monday in February, eighteen jurdical days; second Monday in April, eighteen jurdical days; fourth Monday in May, twenty-four jurdical days; second Monday in September, eighteen juridical days; first Monday in November, eighteen juridical days.

Harlan County—at Harlan—first Monday in February, eighteen juridical days; third Monday in March, eighteen

juridical days; first Monday in May, eighteen juridical days; third Monday in August, eighteen juridical days; first Monday in October, twenty-four juridical days; fourth Monday in November, twenty-four juridical days.

After January 1, 1941, Grand Juries shall be summoned and criminal and penal cases shall be heard only at the terms of Court held at Pineville and Middlesboro, Bell County, on the fourth Monday in February, fourth Monday in May, first Monday in November. In Harlan County, at Harlan, at the terms beginning on the first Monday in February, the First Monday in May, and the first Monday in October; unless in case of emergency the Court may otherwise direct".

So That Section 965-26, as amended, shall read as follows:

"Bell County—at Pineville and Middlesboro—on the first Monday in January, twenty-four juridical days; fourth Monday in February, eighteen juridical days; second Monday in April, eighteen juridical days; fourth Monday in May, twenty-four juridical days; second Monday in September, eighteen juridical days; first Monday in November, eighteen juridical days.

Harlan County—at Harlan—first Monday in February, eighteen juridical days; first Monday in March, eighteen juridical days; first Monday in May, eighteen juridical days; third Monday in August, eighteen juridical days; first Monday in October, twenty-four juridical days; fourth Monday in November, twenty-four juridical days.

After January 1, 1940, Grand Juries shall be summoned and criminal and penal cases shall be heard only at the terms of Court held at Pineville and Middlesboro, Bell County, on the fourth Monday in February, fourth Monday in May, first Monday in November. In Harlan County, at Harlan, at the terms beginning on the first Monday in February, the first Monday in May, and the first Monday in October; unless in case of emergency the Court may otherwise direct."

By Mr. J. Lee Moore.

H. B. 133. An Act to Provide for the Consolidation and Regulation of the Cleaning, Dyeing, Pressing, Hat Renovating and Laundry Industry under one Board, to be known as the Kentucky Dry Cleaning and Laundry Board; and to Provide for the creation of such Board and to define its powers, jurisdiction and duties; and to exempt the ordinary "Wash Woman" from the Provisions thereof; and to Provide for the levying and collection of license fees for the operation of such Board; and to Provide for reasonable charges for service; and to Provide for other purposes reasonably incidental; and to Provide for the prompt payment and adjustment of claims by those engaged in the Cleaning, Dyeing, Pressing, Hat Renovating and Laundry business; and to provide for the protection and preservation of public health and safety; and to Provide penalties for the violation of any of the Provisions of this Act; and to repeal all laws in conflict; and to Provide for Judicial review of the Acts of said Board.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. LEGISLATIVE FINDING AND STATEMENT OF FACT:—This Act is enacted in the exercise of the police power of the Commonwealth in response to urgent necessity to protect the public health and public welfare, to prevent unfair trade competition, to provide reasonable charges for services, to preserve the economic stability of the Cleaning, Dyeing, Pressing, Hat Renovating and Laundry Industry, and to insure to the public a dependable supply of safe, sanitary service at reasonable prices; also such Act is needed to protect the health, safety, morals and welfare of the public at large, who are entitled to protection at law in their social organization, of which such service and industry herein

sought to be regulated is an established part; and to prevent destructive price wars, violence and damage to persons and property, and financial chaos and economic insecurity, resulting from such industry being unregulated. The foregoing statements of fact, policy and application of this Act, recognizing the service and business herein regulated as affected with a public interest are hereby declared as a matter of legislative finding and determination.

§ 2. WASH WOMAN AND WASH WOMEN:—It is not the intention of this Act to in any manner regulate or control the work of the ordinary "Wash Woman," such "Wash Woman" being exempt from the provisions hereof, and are defined as follows: "Wash Woman" and "Wash Women," as used herein, includes any person or persons performing laundry services or engaged in the laundry trade, as herein defined, serving a limited number of customers by means of simple home facilities, and without the use of elaborate power equipment, and not advertising or soliciting under the name of a laundry or similar name, or operating any vehicle for the collection and delivery of laundry from the general public, and performing such laundry services on the person's own residence premises, or on the residence premises of the customer, or on closely adjoining premises thereto.

§ 3. CREATION OF BOARD:—There is hereby created a Board to be known as the Kentucky Dry Cleaning and Laundry Board, to consist of seven members to be appointed by the Governor, and to be subject to removal by him, as in the case of other appointive officers. Such Board shall consist of two members chosen from those residents of this Commonwealth engaged in the Dry Cleaning, Dyeing, Pressing and Hat Renovating Industry, and two members to be chosen from the residents of this Commonwealth engaged in the Laundry Business; and three members chosen from the residents of this Commonwealth to represent

the general public. In naming the members of such Board, the Governor shall give due regard to allowing fair geographical representation throughout the Commonwealth.

No person shall be appointed as a member of such Board to represent the Cleaning, Dyeing, Pressing, Hat Renovating and Laundry Industry unless at the time of his, or her, appointment, he, or she, be a citizen of the United States, and a legal resident of the Commonwealth of Kentucky, and who has not been actively engaged in the Cleaning, Dyeing, Pressing, Hat Renovating or Laundry Business in the Commonwealth of Kentucky for at least five years next preceding his, or her, appointment. Such members shall be appointed for four-year terms, provided that in order to insure rotation in office the first members named hereunder shall be appointed for the following terms of office: The members representing the public shall be appointed for one year, one member exclusively engaged in the Cleaning Industry, and one member exclusively engaged in the Laundry Industry shall be appointed for two years, and two like members shall be appointed for four years, and as the terms of such members shall expire, their successors shall each be appointed for a term of four years. Compensation of such Board members shall be ten dollars ($10.00) per day in attending meetings of the Board, with allowance of actual traveling and reasonable living expenses in connection therewith, which shall be allowed paid as any other expense of the Board. After being appointed and legally qualifying, said Board shall promptly meet and organize by choosing a Chairman and Secretary from its membership to serve at the pleasure of the Board, and shall thereafter conduct its executive organization in a parliamentary manner. Such Board shall thereafter select and employ a Chief Supervisor, who shall be at the time of his appointment a legal resident of this Commonwealth and of adequate experience, and said Supervisor shall be the Administrative Executive of the

Board, in the carrying out of the terms of this ACT, subject to the general supervision of said Board and to serve at the pleasure of said Board, and with such salary, duties and powers as such Board may delegate and provide. The Board shall likewise have authority to employ such other technical, legal and clerical assistance as may be reasonably necessary for the proper administration of this Act, all to serve at the pleasure of said Board, which shall prescribe their powers and duties and fix their compensation. Such Chief Supervisor, subject to the limitations of this ACT and the law, shall assist in enforcing this ACT, but no actual order may be made and issued without the approval of the majority of the membership of such Board, which shall constitute a quorum for the conduct of the Board's business. Provided, that between meetings of the Board such Chief Supervisor may be designated to perform such duties as the Board may prescribe in keeping with the terms of this ACT. The principal office of the Board shall be in such city in Kentucky as the Board may establish as Headquarters, but offices in other localities may also be established and maintained by the Board whenever the same may be deemed expedient and more convenient. On request of such Board, it shall be the duty of the proper officials of this Commonwealth to provide reasonable space for the use of such Board in the State Capitol office Building.

§ 4. GENERAL POWERS. The Board herein created is declared to be the instrumentality of the Commonwealth for the purpose of attaining the ends recited in the legislative finding, and is hereby granted the following powers, to-wit:

To supervise and regulate the entire Cleaning, Dyeing, Pressing, Hat Renovating and Laundry Industry of the Commonwealth of Kentucky as herein defined; to require the prompt handling and adjustment of claims; to hold hearings after reasonable notice thereof has been given; to receive sworn testimony and evidence at such hearings as to the reasonableness of any order, rule or regulation of same; to

reasonably classify and establish different trade areas and provide different rules, regulations and charges therefor; to establish health and sanitation requirements; to fix minimum and maximum prices or either for the rendering or services in separate trade areas in connection with the industry herein regulated; to establish reasonable rules and regulations of fair competition; to fix reasonable rules and regulations for the conduct of the Board's business and for the regulation of its employees; to define and establish definitions and classifications of licenses and services and types of service for employees reasonably connected therewith, provided such definitions and classifications are reasonable and not arbitrary; to require reasonable examinations of license applicants to test their general fitness to engage in such business; to establish rules and regulations for holding hearings in keeping with the procedure herein authorized; to issue subpoenas requiring any person to appear before said Board or at any hearing of said Board for the purpose of giving testimony and producing evidence; to require the production of any books, papers or accounts of any person when relevant to any matter pending before the Board, or in any hearing being conducted under the authority of said Board, and to establish reasonable rules and regulations for the issuance and service of such subpoenas in the name of said Board, either on the authority of a member thereof, or on the authority of the Chief Supervisor of said Board, or any designated employee thereof. Such Board shall also have the power to revoke, suspend or refuse to issue the license of any person, firm or corporation hereunder for the violation of any rule, regulation or order of the Board after due notice and a fair hearing, as herein provided; and to provide for the keeping of proper books and accounts and the filing of statements and reports by those subject to the regulation of said Board; to provide for the collection of the license fees hereunder authorized, and to regulate all other matters reasonably incidental to the general or specific powers herein

recited; to provide for a deputy supervisor in any of the trade areas created by said Board, with authority designated by the Board, including power to investigate complaints, report violations of the Board's orders, and to have such other powers reasonable or incidental thereto, including the right to administer oaths, make investigations, conduct hearings when ordered by the Board and on due notice, and take testimony in connection with the investigation of complaints and to cause the same to be stenographically transcribed and reported and transmitted to the Board for final action thereon, together with such other authority as the Board may designate, in keeping with the general powers and purposes created under this ACT.

The naming of specific powers shall be cumulative and not in lieu of general powers existing or herein conferred.

§ 5. HEARINGS. In the holding of public hearings, the Board shall give reasonable notice, published at least ten days in advance in some newspaper of general circulation in the area proposed to be regulated, advising the time, the place and the purpose of such hearings. Such hearings shall provide a fair hearing to all those reasonably interested including the general public. Any public hearing of the Board may be conducted by any member of the Board, the Chief Supervisor or any attorney, or employee, lawfully designated for such purpose by an order of the Board. In the conduct of any hearing under the authority of this Board as herein authorized, the person duly authorized to conduct the same shall have the power to administer oaths, to require orderly procedure, respectful behavior and conduct from those participating in such hearing, and to enforce reasonable rules in connection therewith, in keeping with the usual accepted principles of a fair hearing. Any person refusing to comply therewith or with any order of the Board, or to answer any subpoena, or to answer any legal question under the directions of the person conducting any such hearing shall be subject to punishment for contempt and shall be

promptly reported to the County Judge of the county in which such hearing is to be held, and it shall be the duty of such County Judge upon an affidavit filed, reasonably establishing any such or other offense, to punish such person guilty thereunder after rule to show cause in the same manner as any other contempt may be punished by such County Judge in any other proceeding over which the County Judge may lawfully preside.

Subpoenas requiring any person, firm or corporation to attend any such hearing of the Board, and to produce evidence therein, may be issued by the Chairman of said Board, or the Chief Supervisor, or by any person lawfully authorized to conduct any such hearing. Such subpoena shall issue in the name of the Board on the authority of any such person connected therewith legally authorized to conduct a hearing, and shall have process running throughout the Commonwealth of Kentucky, and may be served by any designated employee or member of the Board, or may be served by any sheriff or constable in any county where such witness thus summoned may reside or have a place of business in the Commonwealth of Kentucky. The issuance and service of such subpoenas shall be subject to reasonable rules and regulations established by said Board in reference thereto as to the general form and substance thereof and in keeping with law. Witnesses appearing in response thereto shall be entitled to usual fees and expenses to be paid by the Board as allowed witnesses appearing in response to summons in the County Judge's Court in any such County where such hearing is being held.

Persons other than those acting under the authority of the Board desiring to subpoena witnesses at the expense of the Board for any hearing, shall make reasonable requests for the same to the said Board, and it shall be the duty of the Board to approve all reasonable requests therefor, but no witnesses shall be legally subpoenaed and entitled to legal fees and compensation as such, unless the Board, or some

person lawfully conducting such hearing at which such witness is to testify, shall approve the same in advance. The expense of witnesses hereunder authorized shall be approved by the Board, and paid as any other expense of the said Board. Provided, however, in cases where the Board does not desire such witness to testify for and on behalf of the Board itself, and such witnesses will not otherwise appear or respond, the Board may require any person, firm or corporation requesting witnesses to be thus subpoenaed to pay the expense and compensation of such witnesses in advance of such subpoenas being issued. All persons are legally required to respond to any and all subpoenas of the Board when thus lawfully issued and served and may be cited for contempt and punished as for a misdemeanor upon failure to do so.

§ 6. PRICES. Before establishing any trade area or fixing any prices to be charged for various services to be performed or rendered by the services herein regulated, or in altering or amending the same, the Board shall hold a public hearing for such purpose in the area to be affected after giving reasonable notice in some newspaper of general circulation in said area, provided, the Board may on its own motion, and without hearing correct any errors inadvertently made in any of its orders previously issued.

In establishing prices the Board shall take into consideration the rights of the general public and the reasonable and necessary expense and overhead of the industry herein regulated in rendering efficient and sanitary service, with modern equipment and efficient operation, together with the allowing for such reasonable overhead expense including reasonable compensation for labor and the fixing of such reasonable charges as will permit the business herein regulated to be conducted so as to provide the public with safe and sanitary service at a reasonable price while enabling the efficient proprietor of such business to continue in business with a fair return on the actual reasonable investment made

therein. Different prices may be reasonably fixed for different trade areas as the same may be established by the Board.

After the Board shall have fixed prices to be charged or paid for the various classes of service regulated under the provisions hereof, it shall be unlawful for any person, firm or corporation to knowingly sell, charge, or offer to sell, collect, or charge any lower price, or less than such price or prices as shall be applicable to the particular transaction under the rules and orders of this Board in reference thereto, and no method, trick, devise or subterfuge shall be lawful whereby any such service may be done, charged for, offered or sold at or for a price less than such prices as shall be applicable to the particular transaction hereunder as established by order of such Board, whether by any discount, or rebate, or free service, or advertising allowance, or a combined price for such service, together with another commodity or commodities or service or services which is less or more than the aggregate for the prices for such service, and the price or prices for such other commodity or commodities or other service or services, when sold or offered for sale separately or otherwise, or by the payment of any abnormally high rate of commission to any employee under such conditions as would encourage such employee to rebate the customer part of such commission as an inducement for the procuring of such trade and custom.

It shall further be unlawful for any person, firm or corporation to knowingly aid, encourage, or abet any violation of this ACT or any order of this Board whatever, or by the use of any advertising medium of any character or description whatever, on pain of being punished as for a misdemeanor and being subject to be temporarily enjoined without notice.

§ 7. LICENSE. In order to properly regulate those engaged in the service and industry herein regulated, and to provide funds for the proper administration of this ACT, the Board herein created shall have authority to collect

from all those engaged in such service and industry in this Commonwealth as defined or authorized to be defined under the provisions of this ACT, the following license fees, to-wit:

Within thirty days after this ACT shall take effect, or as soon thereafter as the Board herein authorized may be duly appointed and qualified, the owner or manager or proprietor of any dry cleaning plant or any power laundry plant doing business in this Commonwealth, subject to license hereunder, shall promptly register with the Board at its main office by written application, stating the name and location of said dry cleaning plant or laundry plant, the estimated total volume of business done, the name of the owner, proprietor or manager in active charge thereof, then operating said cleaning plant or laundry plant, and shall at the time of making such written application pay to the Board a fee of twenty-five dollars ($25.00) to be known as an original registration fee. Each dry cleaning plant and each laundry plant beginning business thereafter, ten days before opening such plant for operation, shall likewise apply to the Board for such registration certificate, and make the said payment of twenty-five dollars ($25.00) in connection therewith, giving the information above required. In addition to the said registration fee, the following license fees shall also be charged, collected and assessed by said Board, and paid by every owner, or manager, or proprietor engaged in the service and industry herein regulated, to-wit:

For each power laundry plant, twenty-five dollars ($25.00), for each agency or branch store thereof, five dollars ($5.00), for each dry cleaning plant (including cleaning, dyeing, pressing and hat renovating) twenty-five dollars ($25.00), for each agency or branch store thereof, five dollars ($5.00). Provided, if engaged in both dry cleaning, dyeing, pressing, hat renovating and also in the laundry business, only one annual license fee of five dollars ($5.00) shall be collected, as aforesaid, for each branch store or agency for such combined business.

Every delivery clerk, salesman, counter girl or any person engaged in the receiving delivering and collecting charges for laundry or dry cleaning at any plant or branch store, or agency thereof, or in any manner performing similar services at a definite location, shall pay an annual license fee of one dollar ($1.00) each to work for one employer to be designated in such license and to expire upon such person or employee leaving the employ or ceasing to be connected with such employer therein named. Such one license shall carry the right to handle both dry cleaning, dyeing, pressing, hat renovating and laundry.

Every traveling salesman, or solicitor, driver, or similar employee generally soliciting trade from the public throughout the area regulated shall pay an annual license fee of one dollar ($1.00) to work for one employer to be designated in such license, and to expire upon such person or employee leaving the employ or ceasing to be connected with such employer therein named. Such one license shall carry the right to handle both dry cleaning, pressing, dyeing, hat renovating and laundry.

Every plant operator, each driver or proprietor, or lessee of a truck or any similar vehicle, or any similar person making use of same in collecting and delivering laundry or dry cleaning, pressing or dyeing, in connection with any regular route, in whole or in part, shall pay an annual license fee of five dollars ($5.00) for each truck or similar vehicle used for such purpose. Provided, the Board may make reasonable regulations for transfer of license and substitution of such trucks or vehicles.

Every person holding themselves out by definite name or otherwise as being the proprietor of their own business, and the proprietor or owner of any laundry or dry cleaning, pressing, dyeing or hat renovating business or plant, and not as an agent or employee of some other regular licensed laundry or dry cleaning plant, shall be deemed liable for the payment of license fees as the owner, manager or proprietor

of a dry cleaning plant, and also of a laundry plant, when engaged in both businesses, whether actually operating such plant or not, and shall pay an annual license fee of twenty-five dollars ($25.00) for each of such businesses in which engaged.

§ 8. NEW LAUNDRYMEN, ITINERANT LAUNDRYMEN, AND TEMPORARY OR TRANSIENT LAUNDRYMEN AND DRY CLEANERS. The Board shall have authority to make reasonable special rules and regulations of new laundrymen, itinerant laundrymen, and temporary or transient laundrymen, or dry cleaners, in addition to those herein otherwise provided, including the right to acquire and fix a cash bond of one hundred dollars ($100.00) to be posted with and approved by the said Board before such type persons shall engage in business, such bond to be so made payable as to protect the public against the loss or destruction of clothing and failure to pay proper claims thereon. The Board may also classify such type of business into reasonable classifications and require higher or different license fees from such type of proprietors than other licensed proprietors. It is further provided that when any laundry or dry cleaning service may be rendered under any particular conditions not herein set out and defined, an application may be made to the Board for a special license, and the Board shall have discretion to fix and establish a license fee covering such business as far in keeping with other license charges made as may be reasonable and fair.

§ 9. CLASSIFYING AND COLLECTING LICENSE FEES:—The Board is clothed with power to prescribe rules and regulations for the assessing and collecting of license fees, for the classification and defining of various services and those engaged in the business herein regulated reasonably in keeping with the classes herein authorized to be set out and defined, and to further provide any and all necessary machinery for prompt collection of any and all license fees assessed, and may take all steps reasonable and necessary

and authorized hereunder to prevent any person performing any such services without first taking out or paying the license fees herein prescribed including the right to seek an injunction without notice.

The Board may classify licenses, and may issue licenses limited to a particular city, or village, or to a particular trade area, or trade areas in the Commonwealth. Any and all registration or license fees to be paid hereunder shall be paid to said Board and properly receipted for by the Chief Supervisor of said Board, who shall be responsible for a prompt accounting thereof, and shall be placed under such reasonable bond in connection therewith at the expense of said Board as the Board may require in order to furnish reasonable security in keeping with the total amount of such proceeds coming into his possession. All of such proceeds shall be promptly remitted and paid into the State Treasury by him, who shall likewise receipt such Supervisor for the same, and place same to the account of Board in the State Treasury.

All funds collected under the provisions of this ACT are hereby appropriated to said Board for the purpose of administering, enforcing and effectuating the purposes of this ACT. All payments out of said fund shall be made by the State Treasurer on warrants of the State Auditor, on vouchers approved by said Board, or majority thereof, such approval to be made by the Chief Supervisor and countersigned by the Chairman of said Board.

All license fees shall be paid on a yearly basis and shall be due on or before June 1 of each year, and shall cover the period for the ensuing twelve months, provided that when any twenty-five dollars ($25.00) license fee hereunder (except the original registration fee) shall become due the last three months of the license year, such license shall be issued for the remainder of the license year for the sum of $12.50.

No compensation of the members of said Board, or any of its employees, or any expenses incurred by it, shall ever

be or constitute a charge against the Commonwealth of Kentucky, or any fund, or funds, save and except the fund derived from the collection of fees as provided in this ACT.

§ 10. INVESTIGATIONS:—In the enforcement of the provisions of this ACT, the said Board through the Chief Supervisor, or any designated employee, shall have the right to investigate for such purpose, the books and accounts and business and customers, and all affairs of any person, firm or corporation licensed hereunder, relevant to any suspected or alleged violation of the orders of this Board. It shall be the duty of every such licensee thus investigated, or sought to be investigated, to permit the free entry and inspection of all of its affairs, books, accounts, and details of business in connection therewith, and to render full assistance and cooperation in any such investigation to effectuate such purpose. Any such person hereunder authorized to make such investigation shall have the authority to administer oaths similar to those required of witnesses in Civil investigations in the Commonwealth of Kentucky, and to take statements and receive evidence and testimony under oath. It shall be unlawful for any person making such investigation to divulge the results thereof, or any information obtained thereby to the general public, or to any other person, or to make any unlawful or improper use thereof, except to report the same to the said Board for the confidential information of such Board and its employees, except when such testimony of evidence may be legally or properly introduced in connection with any court proceeding, or public hearing of the Board conducted under any provisions hereof, and relevant to any proper subject of investigation pending in such proceedings. Any person knowingly violating this provision shall be punished as for a misdemeanor.

§ 11. PENALTY FOR VIOLATIONS AND REVOCATION AND SUSPENSION OF LICENSES:—All rules and regulations, including those fixing prices, shall be incorporated in a written order, approved and signed by a

majority of the Board, the original copy thereof filed in the office of the Board, and a true and correct copy thereof properly certified by the Chief Supervisor or the secretary of the Board, thereafter filed in the office of the Secretary of State. Thereafter, such order thus executed and filed shall have the full force and legal effect of a law of this Commonwealth. Any person thereafter knowingly violating any provisions or term thereof, shall be guilty of a misdemeanor and subject to be tried and convicted in any criminal courts of this Commonwealth having jurisdiction of such offense, in the county where such offense may be committed; and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) nor exceeding two hundred dollars ($200.00), and each day during which this violation shall continue shall be made a separate offense. In addition thereto, and as cumulative of any other remedy or criminal prosecution, the Board shall also have authority to revoke or suspend the license of any person, firm or corporation knowingly violating any rule or order of the Board.

However, before suspending or revoking any license, there shall be filed with the Board a reasonably definite accusation under oath, charging such licensee with the violation of an order of the Board or any of the provisions hereof. Such Board shall thereafter furnish any licensee alleged to be guilty of such offense a written copy of such charges, reasonably indicating what order, rule or regulation the said licensee is charged with violating, together with reasonable advance notice of not less than ten days of the time and the place at which the Board will conduct a hearing on such matter, and directing such licensee to show cause why such license should not be revoked or suspended. Such hearing may be conducted informally, and without written pleadings, but shall be conducted so as to provide for a fair trial and hearing, as usual recognized as applying to fair legal investigations. Such notice may be served by handing the accused a true and correct copy thereof, or by leaving a true and correct copy at the

usual place of business of such accused, with the person in charge thereof, or by properly mailing to his last known mailing address by registered mail, with return receipt requested.

After conducting such hearing, and having considered the testimony and evidence offered therein, in the event the said Board deems sufficient cause exists, and the charges made against such licensee to have been duly established, said Board may, by order, suspend or revoke the license of such licensee and during the term of such revocation or suspension thereafter such licensee shall not in any way engage in the service, business or industry herein regulated, or perform any duties or render any service in connection with said industry in this Commonwealth of which any type of license is required under the provisions of this ACT, or any rules and regulations made in pursuance hereto. Any person violating any such order of suspension or revocation of license shall be guilty of and punishable as for a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten dollars ($10.00) nor exceeding two hundred dollars ($200.00), and each day during which this violation shall continue shall be deemed a separate offense, and in addition thereto shall be subject to be temporarily enjoined without notice, upon application of any interested person, including the Board, its Chief Supervisor, or any authorized employee or member thereof, by any Court of equity in any County where such offense is committed. Such injunction to be made permanent in the discretion of the Court, in keeping with proper proof, pleadings and procedure, and after final hearing in such Court of equity as by law authorized or provided. It shall be lawful for any licensee whose license has been revoked or suspended or is about to be revoked or suspended, to voluntarily offer as an alternative penalty to pay some reasonable sum of money to the Board, and it shall be lawful but not mandatory for the Board, by proper order,

to accept the same, and deposit and credit the same in the same manner as funds received from the collection of license fees, but the acceptance of the same shall offer no immunity against any other remedy or penalty hereunder authorized.

All public hearings of any character conducted by this Board, and all hearings on the revocation or suspension of any license shall be stenographically reported and the record thereof duly certified by the person reporting the same, and duly filed in the office of the Board as a permanent record thereof, and available for inspection by any properly interested person. It shall be the duty of the Chief Supervisor of said Board, on proper request, to furnish certified copies of any orders or records of hearings by the Board at the reasonable cost of party applying for the same. Any such record of copies of orders or rules or regulations of the Board, when certified as true and correct, over the Seal of said Board, by the Chief Supervisor, shall be admissible in any of the courts of this Commonwealth as prima facie evidence, whenever adjudged relevant and material to the issues involved. An affidavit executed by the Chief Supervisor or Chairman of the Board to the fact that any certain person, firm or corporation has not paid any lawful license fee required hereunder shall be prima facie evidence of such fact in any of the courts of this Commonwealth.

§ 12. SEAL AND CERTIFIED COPIES. Said Board is hereby authorized to designate and use a legal seal, and to formulate and determine the wording and form thereof. Such seal shall be attached by the Chief Supervisor or Chairman, to all original legal orders of the said Board, and to any and all legally certified copies of orders, or records, of said Board.

§ 13. PARTIES—APPEALS. Any person, firm or corporation deeming themselves aggrieved by any action of the Board taken under and of the provisions of this ACT which has resulted in the granting of a final order by the said Board, may, within thirty days after receipt of a copy

of the order of this Board, file a petition in equity in the Circuit Court of the Circuit where the main Headquarters of the Board is located, seeking to reverse, vacate or modify the said order complained of, together with such other relief in equity as plaintiff might deem himself entitled to, and such Court may thereafter proceed to hear and dispose of the same as in other proceedings in Chancery. All legal proceedings may proceed in the name of the Kentucky Dry Cleaning and Laundry Board as plaintiff, or defendant, and legal service of summons and other proceedings to bind the Board may be served upon the Chairman of the Board or the Chief Supervisor, but in the event of their absence, upon any member of the Board, or by leaving a copy at the main office of the Board in the city where such main office may be located. No petition or application to reverse, vacate or modify a final order by the Board shall operate to stay the execution or effect thereof, unless such Circuit Court or a judge thereof in chambers on due application and three days' notice to the Board shall determine such stay, in which event the plaintiff shall be required to execute a bond payable to the Governor of the Commonwealth of Kentucky in such sum as the Court may prescribe, with security to the satisfaction of the Clerk of said Circuit Court conditioned for the prompt payment by the said plaintiff of all damages arising from or caused by the delay in the effectiveness or the enforcement of the order complained of not only to plaintiff but to all other licensees suffering damage therefrom, and such Board shall have authority to sue and collect on such bond for the benefit of all thus damaged. All rights of appeal from a decree of the Circuit Court in Chancery shall exist and be preserved as in other cases.

It is hereby provided, however, that whenever an order of the Board shall make reasonable provision for any person affected thereby to make application to the Board for a rehearing and a supersedeas from such order complained of, such person, firm or corporation, before applying to such

Court of Chancery for relief in equity, shall first avail themselves of such right and opportunity to apply for such rehearing and supersedeas, or make a sufficient valid legal showing on grounds cognizable in a court of equity for not having done so before being entitled to any other relief, provided nothing is herein intended to affect the several powers of any court of equity otherwise existing.

§ 14. PARTIAL INVALIDITY. If any clause, sentence, paragraph or part of this ACT shall for any reason be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 15. CONSTRUCTION, EXCEPTIONS AND LIMITATIONS. This Act shall not be construed to conflict with, alter, repeal, abrogate, or nullify the status, force or operation of any provision of the public health laws, labor laws, law relating to fire hazards, or local health laws or regulations, nor to deprive any State Boards or Departments of any jurisdiction in the premises.

§ 18. All laws and parts of laws in conflict herewith are hereby repealed.

By Mr. Shaikun.

H. B. 134. AN ACT to repeal Chapter 95, being Section 3780 to 3786, both inclusive, of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and enacting in lieu thereof an Act relating to county patrols or county police forces, the appointment, jurisdiction, organization, equipment, maintenance, operation thereof and concerning the rights, powers and duties of county and fiscal courts, which Act shall be designated as Sections 3780, 3781 and 3782 of the Kentucky Statutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 95 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Sections 3780, 3781, 3782, 3783, 3784, 3785 and 3786 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same are hereby repealed, and that in lieu thereof there be re-enacted Chapter 95 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and to be known as Sections 3780, 3781 and 3782 of the Kentucky Statutes, so that when the same is amended and re-enacted that said chapter and section as amended and re-enacted shall read as follows:

Section 3780. *County courts to appoint; jurisdiction of county police.*—The county courts of the respective counties shall have and are hereby given the power, jurisdiction and authority to establish, appoint and maintain a county police force within their respective counties, all of the members and officers of which shall have and are hereby given jurisdiction co-extensive with the whole county for which they are appointed. Such police force may consist of a chief and such number, rank and grade subordinate to the chief as the county court shall deem proper. All of the members of such county police force shall be appointed by the county judge and shall serve at the pleasure of the judge of the county court of their county. None but discreet and sober persons shall be appointed to any position on said county police force. Each of the members of the said county police force shall take an oath before the judge of the county court of their county, to faithfully, impartially and diligently perform the duties of their respective offices. Provided, however, that the chief officer of the county police force of any county may be designated, in the discretion of the county court of said county, as captain or any other appropriate title, and such county police force in any county may consist of one or more

commanding officers, as the county court of such county may deem proper or adequate.

Section 3781. *Rules and Regulations, Groups, Divisions, Sub-divisions, Appointment, Promotions, Transfers, Removals, Suspension, Reinstatement, Fines and Discipline Standardization and Classification; Rights and Powers of Fiscal Courts.*—The county court shall have and is hereby granted the power to make, promulgate and amend rules and regulations for the appointment, promotion, transfer, laying-off, suspension, reinstatement, fine and removal of the personnel of the said county police force, the number of hours of each day, week or month the officers and members shall be on duty, and for the standardization and classification of all of the members of said force into groups, and divisions, or subdivisions and for the organization, equipment and maintenance of said police force, subject to the rights of the fiscal court of the respective counties to fix salaries and compensation of all of the officers and employees of said police department, provided, however, that no fees shall be allowed or paid to said officers or employees.

Section 3782. *Compensation; Establishment and Maintenance of County Police Force, Powers, Salaries and Duties; Bonds;*—The fiscal courts of the respective counties shall fix the salaries or compensation of the chief, captain and patrolmen appointed by the county judge in accordance with the provisions of the Kentucky Statutes, Section 3780, provided, however, that no patrolman shall be paid more than $1,800.00 per annum, no captain shall be paid more than $2,100.00 per annum; and no chief shall be paid more than $2,700.00 per annum, which salaries or compensation shall be payable in equal monthly installments out of the county levy and further, provided, that no fees or other compensation shall be paid or allowed to any of the officers or members of said county police force. The chief of police, the captains of police and patrolmen shall be appointed by the county judge and shall serve in such capacities during the pleasure of the county

court. All members of the county police force shall be citizens of the United States and shall have been bona fide residents of the county in which they are appointed for not less than one year before their appointment, and shall not be less than twenty-one years of age. The fiscal court shall, by order, fix the amount of the salary within the limitations herein provided and may within their discretion provide for motor vehicles, stations, sub-stations, places of detention, telephone, wireless, radio or other means of communication within their discretion and make appropriate levy and appropriations therefor, and may also, with the approval of the judge of the county court, direct the amount of bond to be required of each member of said county police force and may, in their discretion, provide for the payment of premiums on said bonds out of the funds appropriated for said county police force.

The said chief, captains and patrolmen are hereby declared to be peace officers and conservators of the public peace whose duties are to conserve the peace, enforce all laws and preserve order and shall have and are hereby given the same right and the same power to arrest, search and seize as is now given by law to sheriffs of this Commonwealth, and they shall be at all times subject to the orders of the county court. Provided, however, that the members of said county police force shall not have power to serve subpoenas, summonses and notices in civil cases.

By Mr. Barry.

H. B. 135. AN ACT relating to county roads and providing how such roads shall be named and how the names of said roads may be changed and also providing for the marking and placing of signs bearing the names of said roads and providing a penalty for any violation of the provisions of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

All county roads in the respective counties of the Commonwealth of Kentucky shall be named and known by the name by which they were designated on the map or plat of record in the Office of the Clerk of the County Court of each respective county, or by the order of the Court establishing such road, or by the deed or deeds conveying the easement or right-of-way for said road to the county. .

When the name of any road shall have been designated as hereinabove provided for, the name of said road can only be changed by an order of the County Court of said county on a petition filed in said Court and in a proceeding in which 50% or more of the property owners abutting upon said road shall have joined in said petition or shall have been summoned for a hearing upon said petition in the County Court at a day and time designated for such hearing.

Upon petition filed in said Court and in a proceeding in which 50% or more of the owners of property abutting on said road shall have joined in said petition or shall have been summoned for a hearing upon said petition in the County Court at a day and time designated for such hearing, any unnamed road within the county shall, by judgment or order entered upon such hearing, be given a name by which it shall be known and designated.

The Fiscal Courts of the respective Counties may cause signs bearing the name of each road to be erected or placed on said roads, or it may, by a resolution duly recorded upon the record books of said Court, authorize or permit the placing by others, either persons, firms, corporations, or organizations to place or erect such signs as may be approved as to form by the Fiscal Court provided, however, that said signs must bear the name designated to said road by the County Court.

It shall be unlawful for any person, firm, corporation or organization to remove or damage any sign erected as here-

inabove provided for, or to erect or place, or cause to be erected or placed, upon any road any sign or signs, indica ing, marking, or designating said road by any other name than as hereinabove provided for, and any person, firm, corporation, or organization guilty of violating the provisions of this Act shall be fined not less than Ten Dollars ($10.00) and not more than One Hundred Dollars ($100.00) for each offense.

By Mr. Shaikun.

H. B. 136. AN ACT pertaining to elective county offices and the execution of the bond for same and providing how a premium may or shall be paid out of county funds and authorizing the county to pay the premium on bond of all elective county offices when bond with corporate surety is executed.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. All county officials elected by the voters of the county, except mentioned in Section 373a Kentucky Statutes, Baldwin's 1938 Supplement, and who, upon assuming their respective offices, are required under the present law to execute a bond for the faithful discharge and performance of their duties, and who shall have such bond executed by any incorporated surety company authorized to do a surety business in the state of Kentucky, shall pay the premium on such bond, and the amount paid for such premium shall be and become a valid claim against the county and shall be paid in the same manner as other claims against the county are paid: Provided that in each case in which a claim is made for the payment of premium on the bond executed as above set out, the officer executing the bond as principal shall verify the claim by his affidavit, and that the amount of premium to be paid on the bond shall be approved by the Fiscal Court of the county in which said bond is executed.

By Mr. Waterfield.

H. B. 137. An Act to amend section 1682 of Carroll's Kentucky Statutes, 1936 edition, relating to the sale of land under execution.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1682 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Lands must be sold under execution to the highest bidder at the courthouse door of the county in which it lies.

(2) Only so much land shall be sold as will satisfy the execution under which the sale is made.

(3) The officer making the sale must first advertise the time and place of the sale once a week for three consecutive weeks next preceeding the sale in the newspaper of largest general bona fide circulation published in the county, or, if there is no such newspaper, by written or printed notice set up at the courthouse door and three other public places in the vicinity of the land for fifteen days next preceding the sale. The advertisement, whether published or posted, shall describe the land to be sold.

(4) Before a sale of land, the officer shall cause it to be valued under oath by two disinterested, intelligent housekeepers of the county, not related to either party, who may be sworn by him. If they disagree, the officer shall act as umpire. If only a part of a tract is sold, the part so sold shall, after the sale, be revalued in like manner.

(5) The valuation so made shall be in writing, signed by the persons making it, and returned with the execution; and the officer must refer to and explain the proceeding in his return on the execution, which return shall be recorded in full.

By Mr. Howard.

H. Res. 15. RESOLUTION authorizing Pate Motor Company, Elizabethtown, Kentucky, to file suit against the Commonwealth of Kentucky for amount due it for repairing car of Mrs. Alta Gibson, damaged in collision with State Highway Truck and trailer No. 288.

Said resolution is as follows, viz.:

WHEREAS, on August 7, 1939, on Highway 62 near Clarkson, Kentucky, there was a collision between the car of Mrs. Alta Gibson, Valley Station, Kentucky, and Rural Highway truck No. 288, which was pulling a trailer, and

WHEREAS, the automobile of Mrs. Alta Gibson was greatly damaged in said collision, and

WHEREAS, the Pate Motor Company of Elizabethtown, Kentucky, repaired said automobile of Mrs. Alta Gibson and has submitted an itemized account for such repair work in the sum of $384.20, and

WHEREAS, none of said account has been paid to the Pate Motor Company: THEREFORE,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the said Pate Motor Company be, and it is, hereby authorized and permitted to sue the Commonwealth of Kentucky and its Department of Highways in the Franklin Circuit Court for a sum not in excess of $384.20 for said materials furnished and repair work done to the automobile of Mrs. Alta Gibson, and in the event any judgment is recovered by said Pate Motor Company, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasury and paid out of the general fund.

Either party to said suit may appeal from any judgment which may be entered therein as in any other civil suit and the case may be settled and adjusted with the con-

sent and approval of the Attorney General of Kentucky in the same way as any other civil suit.

Ordered that said bills and resolution be printed and referred.

The Speaker announced that he had referred bills which were introduced on Friday, as follows, viz.:

H. B. 97. To Committee on Education No. 1.

H. B. 98. To Committee on Kentucky Statutes No. 1-A.

H. B. 99. To Committee on Criminal Law.

H. B. 100. To Committee on Cities of Second Class.

H. B. 101. To Committee on Kentucky Statutes No. 1.

H. B. 102. To Committee on County & City Courts.

H. B. 103. To Committee on Kentucky Statutes No. 1-A.

H. B. 104. To Committee on Public Health No. 1.

H. B. 105. To Committee on County & City Courts.

H. B. 106. To Committee on Education No. 1-A.

H. B. 107. To Committee on Judiciary.

H. B. 108. To Committee on Agriculture No. 1.

And that he had referred bills which were introduced on today as follows, viz.:

H. B. 114. To Committee on Kentucky Statutes No. 1.

H. B. 115. To Committee on Agriculture No. 1.

H. B. 117. To Committee on Revenue and Taxation No. 1.

H. B. 119. To Committee on Revenue and Taxation No. 1.

H. B. 120. To Committee on Revenue and Taxation No. 1.

H. B. 123. To Committee on Revenue and Taxation No. 1.

Mr. Joe Robinson moved that the House do now recess for twenty minutes.

Said motion was agreed to.

And then the House recessed.

Twenty minutes having expired, the Speaker resumed the Chair and called the House to order.

Mr. J. Lee Moore moved that the privilege of the floor be extended to Mr. Emerson Beauchamp, Sheriff of Logan county.

Said motion was agreed to.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 114. An Act relating to old age assistance, repealing section 3766bb-11 of Carroll's Kentucky Statutes, 1936 Edition, and Chapters 56 and 57 of the Acts of 1938 and abolishing existing liens and reimbursements agreements executed by old age assistance recipients.

By Mr. Joe Robinson of the Committee on Revenue and Taxation No. 1.

H. B. 123. An Act relating to revenue and taxation, and repealing, amending and re-enacting Section 1 of Chapter 63 of the Acts of 1938 Regular Session of the General Assembly.

H. B. 119. An Act to repeal, amend and re-enact Section 4281c-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to revenue and taxation.

H. B. 117. An Act relating to revenue and taxation and more especially repealing, amending and re-enacting Section 4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and repealing Sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and declaring an emergency to exist.

By Mr. Shehan, of the Committee on Judiciary.

H. B. 34. An Act entitled An Act to amend Section 606 of the Civil Code of Practice.

H. B. 2. An Act to amend and re-enact Chapter 65, Acts of the General Assembly of 1932, and to change and fix the time of terms of court in the Tenth Judicial District.

By Mr. Ward of the Committee on Cities of the Second Class.

H. B. 93. An Act to repeal, amend and re-enact sections 3049, 3118, 3119, 3126, 3133, 3143, 3144, 3144a and 3166 of the Kentucky Statutes, Carroll's 1936 Edition, all of which sections are a part of the Charter of Municipalities of the second class relating to the councilmanic form of government; and declaring an emergency to exist.

By Mr. Bosworth of the Committee on Codes of Practice.

H. B. 13. An Act to amend and re-enact Section 244, Kentucky Criminal Code of Practice, relating to the keeping together and separation of jurors.

By Mr. Davis Moore of the Committee on Agriculture No. 1-A.

H. B. 54. An Act to license and regulate the standing of animals for public service.

With a Committee amendment thereto by way of Substitute therefor.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Calendar, a resolution entitled:

S. Res. 5. Joint Resolution appropriating from the Legislative Session Fund additional compensation for the officers and employees of the Senate and the House of Representatives.

Ordered that said resolution be read the second time.

The Constitutional provision as to the second reading of said resolution at length being dispensed with, said resolution was read the second time by its title only.

Ordered that said resolution be placed in the Orders of the Day.

A message was received from the Senate announcing that they had passed a resolution which originated in the Senate, entitled:

S. Res. 9. Resolution relating to the State Unemployment Insurance Fund and the Railroad Unemployment Insurance Act.

Said resolution is as follows, viz.:

WHEREAS, the General Assembly of the Commonwealth of Kentucky, in 1936 enacted an Unemployment Compensation Law, under which the railroads beginning January 1, 1936, and their employees beginning January 1, 1937, were required to pay contributions into the State Unemployment Insurance Fund until July 1, 1939, on which date the railroad unemployment insurance act previously enacted by the Congress of the United States, became effective, and not only removed such railroads and their employees from coverage under the Kentucky law, but which will also now require this state to transfer to the railroad unemployment insurance account not later than thirty (30) days after the adjournment of this session of the General Assembly, the entire unexpended balance of railroad employer and employee contributions paid to Kentucky for the period ending June 30, 1939, and which law further directs the Social Security Board to withhold grants to the State of Kentucky for expense of administering its unemployment compensation law unless such unexpended balances are so transferred, and

WHEREAS, these contributions paid by Kentucky railroad employees, approximating One Million and Thirty-Eight Thousand Seven Hundred Eighty Two Dollars ($1,038,782) were payments not required to be made by any Federal statute but were paid solely because of a statute enacted by the General Assembly of this Commonwealth which placed such employee contributions in a pooled account to be used for payment of benefits only in the event employers' reserve accounts were exhausted, Kentucky being one of only nine (9) of the forty-eight states, two territories and the District of Columbia that ever required payment of employee contributions, and which contributions if now transferred to the railroad unemployment insurance account will be used to pay benefits to unemployed railroad employees in other states who were not required under the laws of such states to pay similar employee contributions, and thus constitute an unequal exaction from Kentucky's railroad employees without in any wise increasing the amount of benefits which they might be entitled to receive, and

WHEREAS, the nearly forty thousand (40,000) Kentucky railroad employees to whom the one million and thirty-eight thousand seven hundred eighty two dollars ($1,038,782) are justly due, are now requesting the Commonwealth of Kentucky to refund such amount to them, and the General Assembly desires so to do, and

WHEREAS, a recent amendment to the Social Security Act, undertakes to require this Commonwealth to enact a law providing for replacement of monies received from the Social Security Board for administrative purposes, if such funds are lost or expended in excess of the amounts found necessary by the Social Security Board for proper administration of the Kentucky Unemployment Compensation Law, or to be deprived of administrative funds for failure to so legislate, and

WHEREAS, the Unemployment Compensation Commission has been unable after numerous requests, to secure from the Social Security Board an interpretation of this previously mentioned requirement, or of information regarding how such condition can be legislated by this state without the possibility of constitutional conflict, and

WHEREAS, the refusal of the Social Security Board to grant administrative funds under either of the conditions referred to herein, would render it either impossible to pay benefits to unemployed workers in this state, or would result in the imposition of additional heavy taxation on Kentucky employers to provide such administrative funds, now therefore.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky that the Congress of the United States be memorialized, and it is hereby respectfully petitioned, FIRST, to so amend Section 13 (c) of the Railroad Unemployment Insurance Act that Kentucky and other states similarly situated shall not be required to pay over the amount collected from railroad employees under state statutes and which was not required to be collected under Federal statutes; and SECOND, to so amend Section 303 (a) (5) of the Social Security Act and Section 1603(a) (4) of the Internal Revenue Code, as to prevent the Social Security Board from withholding administrative funds when the aforesaid railroad employees' contributions have been refunded to them under a state statute; and THIRD, to so amend Section 303 (a) (8) and (9) of the Social Security Act as to remove the requirement of state legislation to replace monies received from the Social Security Board for administrative purposes, if such funds are lost or expended in excess of the amounts which said Board might later find were not in its judgment necessary for proper administration of the State Agency, and be it

FURTHER RESOLVED, that the United States Senators and the Congressmen from Kentucky are hereby re-

quested to present this joint resolution to the Congress of the United States and to exert all diligence in proposing and urging the enactment of the amendments referred to herein.

Mr. Joe Robinson moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 17, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend John T. Galloway of the Northern Presbyterian Church, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Randolph A. Brown	Carlos Fallis
J. Everett Bach	Haynes Carman	T. P. Fitzpatrick
H. T. Baker	Charles M. Carter	Wayne Freeman
G. M. Ballard	James W. Chapman	Eugene Gough
Robert E. Barry	S. B. Chrisman	Van Y. Greene
Wm. T. Beard	John Coulter	Ralph C. Hamilton
Alvis S. Bennett	John H. Cox	C. L. Hammons
Rell Bevins	Pink G. Curd	T. H. Hickey
Sterling B. Blake	W. Q. Daniel	Clyde S. Howard
Douglas T. Bolling	F. E. Daugherty	Chester Huffines
J. F. Bosworth	Stanley S. Dickson	John M. Hunnicutt
W. S. Brim	Forest C. Easley	W. H. Hunt
C. J. Bronston	Harry W. Ennis	R. L. Jackson
Gus A. Brooks	R. R. Ernst	J. B. Jarboe, Jr.

John S. Juett	C. Homer Neikirk	G. C. Springate
William K. King	Carl D. Perkins	J. Claude Stacy
W. A. Lamkin, Jr.	B. W. Porter	Ray J. Stengel
Robert E. Lee	H. O. Porter	Henry Stewart
Harvey D. Leonard	Kleber F. Price	W. St. Clair Stuart
Edward Leslie	Hobart Rayburn	T. M. Swope
W. Paul Lyon	Thomas Rigdon	Otis C. Thomas
C. C. May	W. H. Riley	Erna E. Tyra
T. B. McConnell	Joe E. Robinson	J. Wood Vance
Frank C. McElwain	Lyman Roll	Walter R. Vansant
E. Hayes McMakin	Jack Savage	S. J. Wagner
Norris McPherson	Carl Scheben	Porter Wallace
Stanley C. Moebus	Leon J. Shaikun	Harry F. Walters
John B. Mollette	Ray O. Shehan	Henry Ward
Davis Moore	Faust Y. Simpson	H. L. Waterfield
J. Lee Moore	Otto Smither	Otis White
Joe T. Morgan	E. T. Sparks	James H. Woods

Mr. Hammons moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Bolling moved that Master James Chapman, Jr., be appointed an Honorary Page of this House for the duration of this session.

Said motion was agreed to.

Mr. Beard moved that the privilege of the floor be extended to Mr. Leslie Francis Alexander of Paducah, Kentucky.

Said motion was agreed to.

Mr. Carman moved that the privilege of the floor be extended to Judge W. L. Gouterman of Hart county.

Said motion was agreed to.

Mr. Bevins moved that the privilege of the floor be extended to Mr. G. R. Blackburn of Pikeville, Kentucky.

Said motion was agreed to.

Mr. Shaikun moved that the privilege of the floor be extended to The Honorable Jos. D. Scholtz, Mayor of the city of Louisville, and Messrs. Mark Beauchamp, Palmer Van Arsdele, Virgil Lynch and John Dugan.

Said motion was agreed to.

Mr. Joe Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Hunnicutt moved that the vote by which the clincher was applied to the vote by which the Rules governing the House for the Regular Session, 1940, were adopted, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Hunnicutt moved that the vote by which said Rules were adopted, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Hunnicutt offered the following amendment to said Rules, viz.:

Amend House Rules for 1940 after the (.) period in line 6 second paragraph, Rule 9 of the 1940 Rules of the House of Representatives, adopted January 10, 1940, by adding the following language:

"One printed copy of each bill shall be marked and indentified by the Chief Clerk and each said marked and identified printed bill shall thereafter be the official bill, and each bill as originally introduced shall be filed by the Chief Clerk with each official printed bill."

Said amendment was agreed to.

Said Rules were then adopted, as amended.

Mr. Hunnicutt moved that the vote by which said Rules were adopted, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The following bills and resolutions were introduced, viz.:

By Mr. Brown.

H. Res. 16. A RESOLUTION authorizing E. Pinkston of Fisherville, Jefferson County, Kentucky, to sue the Commonwealth of Kentucky and the Department of Highways, or either of them.

Said resolution is as follows, viz.:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That E. Pinkston of Fisherville, Jefferson County, Kentucky, is authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways, or either of them, in the Circuit Court of Jefferson County, for the pur-

pose of determining the liability of the Commonwealth or the Department of Highways for the damages he claims to have sustained by reason of damage to his store building, stock in trade and business on or about July 11, 1938, through the alleged negligence of the Department of Highways in permitting a decayed tree to stand upon a State Highway in such a condition that the tree fell upon his store building.

The action shall be instituted within one year from the date this resolution becomes effective.

In the event judgment is recovered by the said E. Pinkston, or if his claim is compromised or settled by the Attorney General, the amount thereof, not exceeding three thousand dollars, shall be paid out of the general fund, on warrant of the Department of Finance.

Either party to the suit may appeal to the Court of Appeals as in other civil cases.

By Mr. Simpson.

H. Res. 17. A RESOLUTION authorizing Harve Kegley to sue the Commonwealth of Kentucky and/or Department of Highways.

Said resolution is as follows, viz.:

WHEREAS, on the 18 day of November, 1939, at or about the hour of 7:30 A. M. Harve Kegley while driving on the public highway between Morehead, Rowan County, Kentucky, and Flemingsburg, Fleming County, Kentucky, was injured by reason of the automobile in which he was riding being struck by a truck owned by the Commonwealth of Kentucky, then and there being operated, managed, controlled and used by the Commonwealth of Kentucky and/or its Department of Highways through its employees and agents in the performance of his or their duties, and

WHEREAS, Harve Kegley did thereby sustain serious and permanent injuries to himself and to his property by

reason of alleged carelessness and negligence of the agents and employees of the Commonwealth of Kentucky and/or its Department of Highways in the conduct of the business of the Commonwealth of Kentucky and/or its Department of Highways.

NOW, in order that Harve Kegley may have an opportunity to determine by judicial action the question of negligence, if any, of the agents and employees of the Commonwealth of Kentucky and/or its Department of Highways in the causing of the aforesaid injuries and the liability, if any, of the Commonwealth of Kentucky and/or its Department of Highways therefor,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Harve Kegley be and he is hereby empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky and/or its Department of Highways, or either or both of them, in the Rowan Circuit Court for the Purpose of determining the liability of the Commonwealth of Kentucky and/or its Department of Highways, or either of them, for such injuries, if any there be.

§ 2. In the event any judgment is recovered by the said Harve Kegley or any compromise, agreement or settlement made same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer of the Commonwealth of Kentucky and paid out of the general fund.

§ 3. Either party to such suit may appeal from any judgment which be entered therein as in any other civil suit and such case may be settled, compromised or adjusted with the consent and approval of the Attorney General of Kentucky in the same manner as any other civil suit.

By Mr. Carman.

H. Res. 18. Resolution authorizing and permitting J. E. Monroe of Greensburg, Green county, Kentucky to sue the

Commonwealth of Kentucky and/or the Kentucky Department of Highways.

Said resolution is as follows, viz.:

WHEREAS, on or about the 4th day of November, 1936, the 1½ ton, 1936 Ford truck of the said J. E. Monroe of Greensburg, Kentucky, together with one tarpaulin in use with said truck were damaged, and the cargo of said truck consisting of flour, meal and feed was lost and destroyed while being transported across Cumberland River, on a ferry boat, where State Highway No. 61 crosses said river about one mile south of Burkesville, Cumberland County, Kentucky, and

WHEREAS, said ferry boat was at the time under the control of the State Highway Commission of Kentucky, and same was being operated by its agents and employees; and that by reason of the carelessness and/or negligence of the persons in charge of the operation of said ferry boat at said time and place, the said truck was caused to roll off of the said ferry boat and into the said river, and said truck and tarpaulin were damaged, and said cargo was destroyed and lost,

Now, therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That J. E. Monroe be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and or the Kentucky Department of Highways in the Cumberland County Circuit Court, or the Green County Circuit Court for all damages he may have thereby sustained to his said truck and tarpaulin, and for loss and destruction of said cargo, caused by the said carelessness and/or negligence of the State Highway Commission of Kentucky, its agents and employees in charge of the operation of said ferry boat. Said suit may be for any amount not exceeding One Thousand ($1,000.00) Dollars; and in the event any judgment is received by the said J. E. Monroe, or if his claim in said suit is

compromised or settled by consent or approval of the Attorney General of Kentucky, and the Attorney for the Kentucky Department of Highways, the same shall be paid by the Auditor of Public Accounts of Kentucky by warrant drawn on the State Treasurer of Kentucky and paid out of the general fund.

§ 2. Any action brought under the authority herein granted shall be commenced within one year after the effective date hereof.

§ 3. Either party to said action may appeal from any judgment which may be rendered therein as in other civil action.

By Mr. Simpson.

H. Res. 19. Resolution authorizing Adrian Butler and Mrs. Adrian Butler, his wife, to sue the Commonwealth of Kentucky and/or Department of Highways.

Said resolution is as follows, viz.:

WHEREAS, on or about October 22, 1938, at about the hour of 7:30 P. M., Adrian Butler and Mrs. Adrian Butler, his wife, while driving on the public highway in Bath County, Kentucky, about two miles North of Owingsville on Highway No. 110 and at or near the intersection of the Owingsville and Sharpsburg Road were injured by reason of the automobile in which they were riding being struck by a truck owned by the Commonwealth of Kentucky, then and there being operated, managed, controlled and used by the Commonwealth of Kentucky and/or its Department of Highways through its employees and agents in the performance of his or their duties, and

WHEREAS, Adrian Butler and Mrs. Adrian Butler, his wife, did thereby sustain serious and permanent injuries to themselves and to the property of Adrian Butler, to-wit: his automobile, by reason of alleged carelessness and negligence

of the said agents and employees of the Commonwealth of Kentucky and/or its Department of Highways while in the conduct of the business of the Commonwealth of Kentucky and/or its Department of Highways.

NOW, in order that Adrian Butler and Mrs. Adrian Butler, his wife, may have an opportunity to determine by judicial action the question of negligence, if any, of the agents and employees of the Commonwealth of Kentucky and/or its Department of Highways in the causing of the aforesaid injuries and the liability, if any, of the Commonwealth of Kentucky and/or its Department of Highways therefor,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Adrian Butler and Mrs. Adrian Butler, his wife, be and they, or either of them, are hereby empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky and/or its Department of Highways, or either or both of them, in the Bath Circuit Court for the purpose of determining the liability of the Commonwealth of Kentucky and/or its Department of Highways, or either of them, for such injuries, if any there be.

§ 2. In the event any judgment is recovered by the said Adrian Butler or Mrs. Adrian Butler, his wife, or any compromise, agreement or settlement is made same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer of the Commonwealth of Kentucky and paid out of the general fund.

§ 3. Either party to such suit may appeal from any judgment which may be entered therein as in any other civil suit and such case may be settled, compromised or adjusted with the consent and approval of the Attorney General of Kentucky in the same manner as any other civil suit.

By same.

H. Res. 20. Resolution authorizing Mary E. Tincher to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on December 13, 1938, Mary E. Tincher while employed by the Commonwealth of Kentucky and/or its Unemployment Compensation Commission in the capacity of a charwoman was injured while in the performance of her duties, and

WHEREAS, said injury was alleged to have been caused by the negligence of the agents and employees of the Commonwealth of Kentucky in permitting the floor of the building where Mary E. Tincher was required to work to become wet and slippery from water which dripped from an overhead skylight, and to remain in a dangerous and unsafe condition, and

WHEREAS, Mary E. Tincher did fall on said wet, slippery and unsafe place on said floor thereby permanently and severely injuring her hand, wrist and arm, and

NOW, in order that Mary E. Tincher may have an opportunity to determine by judicial action the question of negligence, if any, of the agents and employees of the Commonwealth of Kentucky, and/or its Unemployment Compensation Commission in the causing of the aforesaid injury and the liability, if any, of the Commonwealth of Kentucky therefor,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Mary E. Tincher be and she is hereby empowered and authorized to file and prosecute appropriate action against the Commonwealth and/or its Unemployment Compensation Commission in the Franklin Circuit Court for the purpose of determining the liability of the Commonwealth of Kentucky and/or its Unemployment Compensation for such injuries, if any there be.

§ 2. In the event any judgment is recovered by the said Mary E. Tincher or any compromise, agreement or settlement is made same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer of the Commonwealth of Kentucky and paid out of the General fund.

§ 3. Either party to such suit may appeal from any judgment which may be entered therein as in any other civil suit and such suit may be settled, compromised or adjusted with the consent and approval of the Attorney General of Kentucky in the same manner as any other civil suit.

By Mr. Waterfield.

H. B. 138. AN ACT relating to financial statements of persons, firms and corporations handling public money, amending section 1 of Chapter 27 of the Acts of 1938; compiled as section 3747a-1 of Baldwin's Kentucky Statute Service, April, 1939, and section 3747a-2 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of Chapter 27 of the Acts of 1938, compiled as section 3747a-1 of Baldwin's Kentucky Statute Service, April, 1939, is amended to read as follows:

(1) Every public official or depository of any county, school district, city, town or subdivision or district less than a county, whose duty it is to collect, receive, or have the custody, control or disbursement of public funds, except in counties containing a city of the first class or a county or city which by law is required to make quarterly publication of its fiscal and financial affairs; shall at the end of each fiscal year prepare an itemized, sworn statement of the public funds so collected, received, kept or disbursed by him

during the fiscal year. The statement shall show the amount of public funds collected and received and from what sources, and the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that in the case of regular salaries paid oftener than once a year the total salary of any person for the year may be listed as one item of disbursement. A public official making the statement herein required shall procure and include in or attach to it as a part thereof a certificate from the proper officer of any bank in which public funds are or have been deposited during the past fiscal year, showing the balance to the credit of the official making the statement; and a depository making the report shall include or attach the certificate of its own cashier or other proper officer showing the balance due.

(2) The public official or depository making the statement herein required shall within thirty days after the end of the fiscal year have the statement published in the newspaper of largest general bona fide circulation published in the county, and shall file with the county court clerk of the county where he resides or holds office a written or printed copy of the statement, subscribed and sworn to. The publication shall be paid for out of the public funds in the hands of the official or depository making the statement.

§ 2. Section 3747a-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Any public official or depository failing to comply with section 3747a-1 shall be fined not less than Two Hundred and Fifty Dollars nor more than Five Hundred Dollars; and if any fiscal court, city legislative body or board of education directs any public official not to comply with section 3747a-1, or ratifies such non-compliance after it has occurred, every member thereof who voted in favor of such direction or ratification shall also be subjected to the fine. The fine shall be paid into the treasury of the county, city or district for which the public official convicted held office, or of the county in which the depository convicted is located.

§ 3. Section 1846 of Carroll's Kentucky Statutes 1936 edition, is repealed.

By Mr. Bolling.

H. B. 139. An Act to promote the public welfare by providing aid to dependent children.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act: "Aid to Dependent Children" means money payments, and such services as may be necessary to provide for the welfare of a dependent child or dependent children; "Applicant" means a child for whom Aid to Dependent Children has been applied for under the provisions of this Act; "Recipient" means a child who is receiving Aid to Dependent Children under the provisions of this Act; "State Department" means the State Department of Welfare created by the Governmental Reorganization Act of 1936; "Dependent Child" means a needy child under the age of sixteen (16), or under the age of eighteen (18) if found by the State Department to be regularly attending school, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt in a place of residence maintained by one or more of such relatives as his or their home.

§ 2. *Eligibility for Aid to Dependent Children.* Aid to Dependent Children shall be granted to any dependent child who: (a) Has resided in the State for one year immediately preceding the application for Aid to Dependent Children, or who was born within the State within one year immediately preceding the application for Aid to Dependent Children if

its parent or parents have resided in the State for one year immediately preceding the birth; (b) Is a resident of the State at the time of receiving Aid to Dependent Children.

§ 3. *Amount of Aid to Dependent Children to be granted.* The amount of Aid to Dependent Children which shall be granted for any dependent child shall be determined with due regard to the resources and requirements of the family and the conditions existing in each case and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health.

§ 4. *Duties of the State Department.*

(a) The State Department shall: (1) Have the administration of all funds appropriated or made available to it for the purposes of this Act; (2) Receive and administer such Federal funds as are made available and shall prepare and submit such reports as may be required by the Federal Government with respect to Aid to Dependent Children; (3) Develop plans and policies for Aid to Dependent Children in co-operation with the Federal Government; (4) Develop standards of service for the administration of Aid to Dependent Children in the State; (5) Co-ordinate the functions of the several Divisions in the State Department to provide specialized services to any applicant and recipient where such specialized services are deemed necessary for the welfare of a child or children; (6) co-operate with the Division of Personnel Efficiency in the State Department of Finance in establishing standards for personnel employed in the administration of this Act and these personnel standards shall meet the minimum requirement of the Social Security Board in the Federal Government, and the State Department shall make rules and regulations necessary to maintain personnel standards; (7) Provide such forms, records and reports as may be necessary with respect to the administration of this Act;

(b) The State Department shall make such rules and regulations and take such action as may be necessary or desirable from time to time for the efficient administration of this Act and these rules and regulations shall provide for uniform practice of this Act throughout the State;

(c) The Commissioner of Welfare shall appoint in accordance with the Governmental Reorganization Act of 1936 such personnel, professional or otherwise, as are necessary to properly administer this Act.

§ 5. *Confidential Nature of Records.* Notwithstanding any other provisions of law it is hereby provided that all applications and records concerning any applicant and recipient and the name of any applicant and recipient shall be confidential, and the State Department shall establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the State Department.

§ 6. *Right of appeal.* An applicant or recipient of Aid to dependent Children as provided for in this Act, who shall be dissatisfied with the decision on his application, or because of delayed action on his application, for such Aid to Dependent Children or the amount of Aid to Dependent Children granted to him shall have the right to appeal to the State Department in the manner and form prescribed by rules and regulations of the State Department, and the State Department shall establish rules and regulations which shall provide that on receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing.

§ 7. *Aid to Dependent Children not assignable.* All Aid to Dependent Children granted under this Act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the State.

§ 8. *Short Title.* This Act shall be known as the Aid to Dependent Children Act.

§ 9. *Repeal of existing laws.* All laws and parts of laws in conflict with any of the provisions of this Act are hereby expressly repealed.

§ 10. *Separability clause.* It is hereby declared to be the intent of the Legislature that if this Act cannot take effect in its entirety because any section, paragraph, clause, or word of this Act shall be adjudged to be unconstitutional, such adjudication shall not effect the remaining portion of this Act and said remaining portion shall be given full force and effect as completely as if the part held unconstitutional had not been included.

By Mr. Hunnicutt.

H. B. 140. An Act to repeal, amend and re-enact sections 1, 3, 5, 7, 8, 9 and 12 of Chapter 32 of the Acts of 1938, compiled as sections 3990e-1, 3990e-3, 3990e-5, 3990e-7, 3990e-8, 3990e-9 and 3990e-12 of Baldwin's Kentucky Statutes, May 1938 Supplement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That sections 1, 3, 5, 7, 8, 9, and 12 of Chapter 32 of the Acts of 1938, compiled as sections 3990e-1, 3990e-3, 3990e-5, 3990e-7, 3990e-8, 3990e-9, and 3990e-12, Baldwin's Kentucky Statutes, May 1938 Supplement, be repealed, amended, and re-enacted, so that when so repealed, amended, and re-enacted, said sections shall read as follows:

Section 3990e-1. On and after the effective date of this Act, it shall be unlawful for any person, copartnership, association or corporation, to act as a real estate broker or real estate salesman or to advertise or assume to act as such real estate broker or real estate salesman, in any city of the first, second and third class, and within five miles from the

corporate limits thereof, without a license issued by the Kentucky State Real Estate Commission.

No copartnership, association, or corporation, shall be granted a license, unless every member or officer of such copartnership, association or corporation who actively participates in the brokerage business of such copartnership, association or corporation, shall hold a license as a real estate broker, and unless every employee who acts as a salesman for such copartnership, association or corporation shall hold a license as a real estate salesmen.

Section 3990e-3. There is hereby created the State Real Estate Commission. The Governor shall appoint three persons, each of whom, immediately prior to the date of his appointment, has been resident of the State and of a City of the first, second and third class and within five miles from the corporate limits thereof for five years and whose vocation for a period of at least ten years shall have been that of a real estate broker or a real estate salesman; one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member for a term of three years; and until their successors are appointed and qualify, thereafter the term of the members of said Commission shall be for three years and until their successors are appointed and qualify. Members to fill vacancies shall be appointed for the unexpired term. The Commission immediately upon the qualification of the member appointed in each year shall organize by selecting from its members a chairman, and may do all things necessary and convenient for carrying into effect the provisions of this Act and may from time to time promulgate necessary rules and regulations.

Each member of the Commission shall receive as full compensation for each day actually spent on the work of said Commission the sum of $10.00 per day and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

The Commission shall employ, and at its pleasure discharge a secretary and such clerks and assistants as shall be deemed necessary to discharge the duties imposed by the provisions of this Act, and shall outline their duties, and fix their compensation, subject to the general laws of this State. The Commission shall obtain such office space, furniture, stationery, fuel, light, and other proper conveniences as shall be reasonably necessary for carrying out the provisions of this Act.

The Commission shall adopt a seal with such design as the Commission may prescribe engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the Commission, duly certified and authenticated by the seal of said Commission shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the Commission under authority of this Act shall be open to public inspection under such rules and regulations as shall be prescribed by the Commission.

All fees and charges collected by the Commission under the provisions of this Act shall be paid into the general fund in the State Treasury. All expenses incurred by the Commission under the provisions of this Act, including compensations to members, secretaries, clerks and assistants, shall be paid out of the general fund in the State Treasury upon warrants of the Auditor of Public Accounts and/or Director of Finance as warrants generally are required to be drawn by the Statutes governing such respective offices from time to time, when vouchers therefor are exhibited and approved by the Commission; Provided, that the total expense for every purpose incurred shall not exceed the total fees, charges, fines, and penalties imposed under the provisions of this Act, and paid into the State Treasury.

Section 3990e-5. The Commission shall issue to each licensee a license in such form and size as shall be prescribed by the Commission. This license shall show the name and

address of the licensee and in case of a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the Commission, and in addition to the foregoing shall contain such matter as shall be prescribed by the Commission. The license of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to conspicuously display his license in his place of business.

The Commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the Commission and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be, and if it is a real estate salesman's card, it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the Commission.

The original fee for each real estate broker's license shall be Ten Dollars ($10.00), and for the annual renewal fee shall be Five Dollars ($5.00). The original fee for each real estate salesman's license shall be Two Dollars ($2.00) and for the annual renewal fee shall be One Dollar ($1.00). Provided, that when a copartnership, association or corporation shall have paid the original fee of Ten Dollars ($10.00) or a renewal fee of Five Dollars ($5.00) and shall have designated one of its members or officers as hereinafter provided in this section, the fees payable by any other member or officer actively engaged in the real estate business of such copartnership, association or corporation shall be Two Dollars ($2.00) for the first registration fee and One Dollar ($1.00) for the renewal fee, for which a salesman's license shall be issued, but any such member or officer shall be entitled to a broker's license upon the payment of the usual fee therefor.

When a real estate broker's license is granted to any copartnership or association, consisting of more than one person, or to any corporation, this shall entitle the copartnership, association or corporation to designate one of its members or officers, who upon compliance with the terms of this Act shall, without payment of any further fee, upon issuance of said broker's license, be entitled to perform all of the acts of a real estate salesman contemplated by this Act. The person so designated, however, must make application for a salesman's license, which application shall accompany the application of the real estate broker, and be filed with the Commission, at the same time. If, in any case the person so designated by a real estate broker shall be refused a license by the Commission, or in case such person ceases to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.

Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this Act without any application upon his part and without payment of any fee other than the real estate broker's annual fee.

Every license shall expire on the thirtieth day of June of each year. The Commission shall issue a new license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of a license, upon receipt of the written request of the applicant and the annual fee therefor, as herein required. The revocation of a broker's license shall automatically suspend every real estate salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which original license was granted.

No person, copartnership or corporation engaged in the business of acting in the capacity of a real estate broker or a real estate salesman within any city of the first, second and/or third class, and within five miles from the corporate limits thereof, of this State shall bring or maintain any action in the Courts of this State for the collection of compensation for any services performed as a real estate broker or salesman without alleging and providing that such person, copartnership or corporation was duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

Notice in writing shall be given to the Commission by each licensee of any change of principal business location whereupon the Commission shall issue a new license for the unexpired period without charge. The change of business location without notification to the Commission shall automatically cancel the license theretofore issued.

When any real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by registered mail to the Commission such real estate salesman's license. The real estate broker shall at the time of mailing such real estate salesman's license to the Commission address a communication to the last known residence address of such real estate salesman, which communication shall advise such real estate salesman that his license has been delivered or mailed to the Commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the Commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this Act either directly or indirectly under authority of said license from and after the date of receipt of the said license from said broker by the Commission; Provided, that another license shall not be issued to such real estate salesman until he shall return his former pocket card to the Com-

mission or shall satisfactorily account to it for the same. Provided, further, that not more than one license shall be issued to any real estate salesman for the same period of time.

Section 3990e-7. The Commission shall, before denying an application for license or before suspending or revoking any license, set the matter down for a hearing; and at least twenty days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all such hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by registered mail to the last known business address of such applicant or licensee. If such applicant or licensee be a salesman, the commission shall also notify the broker employing him or in whose employ he is about to enter by mailing notice by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe.

In the preparation and conduct of hearing the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of papers, and any member of the Commission may sign subpoena, administer oaths and affirmations, examine witnesses and receive evidence, the fees and mileage shall be the same as prescribed by law in judicial procedure in the Courts of this State in civil cases. Any party to any hearing before the Commission shall have the right to the attendance of witnesses in his behalf at such a hearing upon making a request thereof to the Commission and designating the person or persons sought to be subpoenaed.

In the case of disobedience to a subpoena any member of the Commission may invoke the aid of any Court of competent jurisdiction in requiring the attendance and testimony

of witnesses and the production of papers; and such Court may issue an order requiring the persons to appear before the Commission and give evidence or to produce papers as the case may be; and any failure to obey such order of the Court may be punished by the Court as contempt thereof.

Testimony may be taken by deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

Any person who shall neglect or refuse to attend and testify or to answer any lawful inquiry or to produce documentary evidence if in his power to do so in obedience to a subpoena or lawful requirement by such Commission or member thereof shall be guilty of a misdemeanor and upon conviction thereof by a Court of competent jurisdiction shall be punished as provided in this Act.

If the Commission shall determine that any applicant is not entitled to receive a license, a license shall not be granted to such applicant, and if the Commission shall determine that any licensee is guilty of a violation of any of the provisions of this Act, the license shall be suspended or revoked. The Commission upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its finding of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee, or for the revocation of the license, as the case may be. The findings of fact made by the Commission acting within its powers shall, in the absence of fraud, be conclusive.

Any party aggrieved by the action of the Commission in refusing to grant a license or in suspending or revoking a license may, within ten days, after the entry of such order or refusal, revocation or suspension, file in the office of the Clerk of the Circuit Court of the county wherein is situated the city of the first, second and/or third class in which the action of the Commission is applicable, an attested copy of

the proceedings before the Commission, provided he shall first post a bond to secure the costs of the action in such sum as may be approved by the Clerk of the Circuit Court, with good and solvent surety. The Commission shall be a necessary party to all such appeals. The Circuit Court Clerk shall thereupon docket the case as though it were a petition in equity and shall immediately issue a summons for such Commission, and said summons shall be returned in the same manner as are summonses in equity cases. No formal pleadings shall be required in such appeals but the case shall be set down by the Court for as early a date as possible for a hearing, and after such hearing the Court shall enter a judgment sustaining or setting aside the order of the Commission. Either party may appeal to the Court of Appeals from the judgment of the Circuit Court in the same manner as an appeal can be taken from a judgment in equity cases.

Section 3990e-8. A non-resident of this State may become a real estate broker or salesman in any city of the first, second or third class, and within five miles from the corporate limits thereof, by conforming to all the conditions of this paragraph and this Act.

In its discretion the Commission may recognize in lieu of the statements required to accompany an application for license, the license issued to a non-resident broker, or salesman in such other State, upon payment of the license fee and the filing by the applicant with the Commission of a certified copy of applicant's license issued by such other State.

(a) Provided that such applicant, if a broker, shall maintain an active place of business in the State by which he is originally licensed; and

(b) Provided further that every non-resident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this State in which a cause of action may arise in which the plaintiff may reside, by the service of any pro-

cess or pleading authorized by the laws of this State on the Secretary of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Secretary shall be taken and held in all Courts to be as valid and binding as if due service had been made upon said applicant in the State of Kentucky. Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, or by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals, shall be accompanied by the duly certified copy of the resolution of the proper officers or managing board, authorizing the proper officers to execute the same. In case any process or pleadings mentioned in the case are served upon the Secretary of the Commission, it shall be by duplicate copies, one of which shall be filed in the office of the Commission and the other immediately forwarded by registered mail to the main office of the applicant against which said process or pleadings are directed.

(c) Provided, further, however, that every non-resident of this State shall file a bond in form and content the same as is required of applicants under Section 4, in this Act.

Section 3990e-9. The Commission shall at least semi-annually publish a list of the names and addresses of all licensees licensed by it under the provisions of this Act, and of all persons whose license has been suspended or revoked within one (1) year; together with such other information relative to the enforcement of the provisions of this Act as it may deem of interest to the public. One of such lists shall be mailed to the County Clerk in each County of the State wherein is located a city of the first, second or third class, and within five miles from the corporate limits thereof; and shall be held by said County Clerk as a public record. Such lists shall also be mailed by the Commission to any person in this State upon request.

Section 3990e-12. Nothing in this Act contained shall affect the power of cities of the first, second and/or third

class to tax, license and regulate real estate brokers. The requirements hereof shall be in addition to the requirements of any existing or future ordinances of any such city so taxing, licensing, or regulating real estate brokers.

By Mr. Waterfield.

H. B. 141. An Act to amend section 2 of Chapter 21 of the Acts of 1938 first extraordinary session, compiled as section 4149 of Baldwin's Kentucky Statute Service, April, 1939.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2 of chapter 21 of the Acts of 1938, first extraordinary session, compiled as section 4149 of Baldwin's Kentucky Statute Service, April, 1939, is amended to read as follows:

4149. *Distraint for taxes; sale of property and fees; liability of sheriff.* As soon as any taxpayer becomes delinquent, the sheriff or the collector of the county where the property is liable shall distrain sufficient personal property of such delinquent, if found in the county, to satisfy all taxes, penalties, interest and penalties due. If a sufficient amount of personal property be not found, then he will levy on a sufficient quantity of the delinquent's land for that purpose. But if no land be found belonging to the delinquent, the sheriff shall levy on any real estate owned by the delinquent at the time of assessment for the taxes or a sufficient amount to satisfy the taxes, cost, and penalties due. If the sheriff makes illegal or unreasonable seizure and levy for taxes, he shall be liable in damages to the part aggrieved. A sheriff or tax collector shall sell for cash any property belonging to the delinquent taxpayer so levied upon or as much thereof as will pay the taxes due, penalties,

interest and cost and his commission, in the same manner that property is sold under execution, except that the land shall not be valued, and shall be advertised by posting, for 15 days before the sale, a written or printed notice at the courthouse door, and by publication once a week for three consecutive weeks prior to the day of sale in the newspaper of largest general bona fide circulation published in the county; if not, then by printed hand bills posted for 15 days before the sale at the courthouse door and in three or more conspicuous places in the taxing district; and he shall, not less than 15 days before the sale, mail to the delinquent a postal card addressed to his place of residence or place of business if such can be ascertained, notifying him of the time and place of sale; and in order to cover the cost of such advertisement and notification, the sheriff or collector shall have one dollar for each person whose property is advertised, to be paid by the delinquent, but in no event to be paid by the state, county or taxing district.

By Mr. White.

H. B. 142. AN ACT to provide for the postponement of the rendition of judgment, and the use of probation in misdemeanor cases in Quarterly Court, and defining the duties of the Judges of the Quarterly Court.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any county judge while presiding over the Quarterly Court may postpone the entering of judgement and the imposing of sentence, and may probate any person arraigned before the Quarterly Court charged with any misdemeanor.

The county judge shall determine, and may at any time modify the conditions of probation, and may include among them the following, or any other reasonable condition, in his discretion. That the probationer shall

(a) Avoid injurious or vicious habits.

(b) Avoid persons or places of disreputable or harmful character.

(c) Report to the county judge at times and periods as designated by the said judge.

(d) Permit the county judge, or any officer designated by him, to visit at the home of the person probated.

(e) Work faithfully at suitable employment, as far as possible.

(f) Remain in a specified place.

(g) Pay a fine in one or several sums, as directed by the court.

(h) Make reparation or restitution to any aggrieved party for any damage or loss caused by the offense, in an amount to be determined by the court.

(i) Support his dependents.

The period of probation or postponement of rendition of judgment shall be determined by the court, and may be continued or extended. Upon the satisfactory fulfillment of the conditions of probation or postponement of rendition of judgment the court shall, by order duly entered, discharge the defendant.

At any time during the period of probation or postponement of judgment the court may issue a warrant and cause the defendant to be arraigned for violating any of the conditions of probation or postponement of rendition of judgment. The county judge may request any officer to arrest a probationer without a warrant, upon a statement being filed of record by the court that the probationer has, in his judgment, violated the conditions of probation and the said statement shall be sufficient warrant for the detention of said probationer in the county jail, or other place of detention until such probationer shall be brought before the court. Thereupon the court, after a hearing, may revoke the probation or postponement of rendition of judgment and shall

proceed to deal with the case as if there had been no probation or postponement of rendition of judgment.

By Mr. Bevins.

H. B. 143. AN ACT relating to and providing for the extension of teacher's certificates in the Commonwealth of Kentucky; the length of time and by whom extended; providing for the payment of fees in connection with the extension of same; and declaring the terms under which same may be extended.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any teacher who has taught school in the State of Kentucky for twenty years or more shall have or is entitled to have issued to him or her a certificate permitting him or her to teach in the elementary schools of the State for life, and this Act shall apply to certificates issued under Chapter 13, Special Session 1934. Provided, however, such application shall be accompanied by a fee of Two Dollars ($2.00), to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Fund.

All laws or parts of laws in conflict are hereby repealed.

By same.

H. B. 144. AN ACT relating to and providing for the issuing of teacher's certificates to teachers whose certificates have expired in the Commonwealth of Kentucky; the length of time and by whom issued; providing for the payment of fee in connection with the issuing of same; and declaring the terms under which same may be isued.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any teacher who has taught school in the State of Kentucky, and whose certificate has expired previous to June 30, 1940, shall have and is entitled to have issued to him or her a certificate permitting him or her to teach in the elementary schools of the State during the school year of 1940-1941, and this Act shall mean that said Certificate may be renewed with one semester's work (2 units) done in an accredited high school or 16 hours in college depending on the credits said teacher or teachers may have, provided, however such application for the issuance of said Certificate shall be accompanied by a fee of Two Dollars ($2.00) to be collected by the Department of Education and delivered to the State Treasurer to be credited to the General Fund.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Hamilton.

H. B. 145. An Act to repeal, amend and re-enact Section 68b-4 Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz:.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 68b-4, Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted said Section shall read as follows:

License; fee—All licnse taxes hereinafter provided shall be receivable and license tags procurable at and during the same time in each calendar year that State and county ad valorem taxes may by law be due and payable therein, beginning 1941 for license taxes for that calendar year. The amount of the license tax herein provided shall be charged

on the tax bills made out by the County Clerk as provided in Section 4239a, Kentucky Statutes, Carroll's 1936 Edition, and shall constitute a part of the taxes owing by any taxpayer, and it shall be the duty of the sheriff to collect the amount of said license tax along with all other taxes owing by any taxpayer and when collected the sheriff shall thereupon issue a license for each dog owned or kept by said taxpayer as shown on said tax bill. The fee which the said county court clerk shall charge on the tax bills made out by him shall be $1.00 for each male and $2.00 for each female dog. The license fee for a spayed female dog shall be the same as that of the male dog, provided that the owner presents certificate from a licensed veterinarian stating that he has spayed said female dog. The veterinarian's certificate shall state the breed, age, color and markings of and the date on which female dog was spayed.

By Mr. Perkins.

H. B. 146. An Act to amend section 979b-5 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 979b-5 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Except in cases of carrying concealed deadly weapons, or where the punishment has been fixed at death or life imprisonment, a circuit court may, after a plea or verdict of guilty, postpone the entering of judgment and sentencing of a defendant charged with crime and place him on probation, or may impose a fine and also place him on probation.

By Mr. Neikirk.

H. B. 147. An Act to restrict the sale of rubbing alcohol to medicinal purposes only and penalties thereto for violation of same.

Said bill is as follows, viz.:

WHEREAS, there is and has been an increased use of rubbing alcohol for purposes other than medicinal, and

WHEREAS, the sale of rubbing alcohol by present retail methods is conductive to the use of the article as a beverage,

Therefore, be it enacted by the General Assembly of the Commonwealth of Kentucky:

Hereafter the sale of rubbing alcohol by other than registered pharmacists in state licensed drug stores is prohibited. The pharmacists making such sale must be reasonably sure that the article is to be used for medicinal purposes only, and in the event the pharmacist is in doubt, he may refuse to make the sale. The pharmacist shall cause to be kept a ledger in which the purchaser of the above mentioned article shall sign his name opposite the date and the amount of purchase, said ledger shall be a matter of public record.

Failure to comply with this Act shall be deemed a violation of law and punishable by a fine of not less than twenty-five dollars nor more than fifty dollars for each offense.

By Same.

H. B. 148. AN ACT to amend Section 4399, Subsection 34 of Kentucky Statutes, and to provide for the election of superintendent of common schools, by the qualifed voters residing in the boundary of said common school district.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 4399, Subsection 34 be amended, as follows: Adding after the words, "Each Board of Education shall

appoint a superintendent of Schools, whose term of office shall begin on July 1 following his appointment, and said appointment may be for a term of one, two, three or four years.'' PROVIDED HOWEVER, that the superintendent of common schools, shall be elected by the vote of the eligible and qualified voters, resident within the boundary lines of said common school district, and at the regular election when all the county officers are elected in the several counties of this Commonwealth. Any qualified person desiring to become a candidate for said office, will file his petition signed by 100 electors of the common school district, by which they shall nominate the aforesaid candidate, with the County Court Clerk of the county, at least 30 days prior to the election. The said petition shall contain the names, residence, and Post Office of the petitioners, and state that they desire to vote for said candidate, and that they desire his name as such to be printed on the official ballot. Said official ballot shall be separate from the regular official ballot and no devices shall be printed theron, and same shall contain the heading ''Candidates for County Superintendent.'' and the names of the candidates shall be printed immediately below, said heading, and immediately after said names, there shall be placed a ''Square.'' In manner and form otherwise, the said ballots shall be printed like the regular official ballots. Fifteen days prior to the election the various candidates will appear in the office of the county clerk, and draw for places on the ballot. After the said election the ballots will be counted, and the result certified in manner and form as provided in election of other county officers; and all other election laws not in conflict herewith will be applicable.

The said superintendent of common schools so elected will serve for a term of four years, but may be removed in the same manner now provided by law.

That portion of said statutes so amended shall be reenacted and shall read as follows:

Each board of education shall appoint a superintendent of schools, whose term of office shall begin on July 1, following his appointment, and said appointment shall be for a term of ONE, TWO, Three and Four Years. PROVIDED HOWEVER, that the superintendent of common schools, shall be elected by a vote of the eligible and qualified voters, resident within the boundary lines of said common school district, and at the regular election when all the county officers are elected in the several counties of this Commonwealth. Any qualified person desiring to become a candidate for said office will file his petition signed by 100 electors of said common school district, by which they shall nominate the aforesaid candidate, with the county court clerk of the county, at least 30 days prior to the election. The said petition shall contain the names, residence, and Post Office of the petitioners, and state that they desire to vote for said candidate, and that they desire his name as such to be printed on the regular official ballot. The said official ballot shall be separate from the regular official ballot, and no devices shall be printed thereon, and same shall contain the heading "Candidates for County Superintendent," and the names of the Candidates shall be printed immediately below said heading and immediately after said names there shall be placed a "Square." In manner and form otherwise the said ballots shall be printed like the regular official ballots. Fifteen days prior to the election, the various candidates will appear in the office of the county clerk and draw for places on the ballot. After the said election the ballots will be counted and the result certified in manner and form as provided in the election of other county officers, and all other election laws not in conflict herewith will be applicable.

The said superintendent so elected will serve for a term of four years, but may be removed in the same manner now provided by law.

All of that portion of the statute aforesaid to-wit: Section 4399, subsection 34, and beginning at line six in said statute, is hereby reenacted and made a part of this amendment.

All acts or parts of acts in conflict herewith are hereby repealed.

By Mr. Carman.

H. B. 149. An Act to amend section 4281f-1 of Carroll's Kentucky Statutes, 1936 Edition as amended by Chapter 34 of the Acts of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 4281-1 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 34 of the Acts of 1938, is amended to read as follows:

4281f-1. *Definitions.* (1) "Places of Amusement and /or entertainment" means and includes all theatres, ball parks and stadia, lecture halls, dance halls, night clubs, skating rinks, public bathing places and all places of other sorts, whether like those above mentioned or not, at which business providing amusements or entertainment for which a charge is made are operated, but does not mean nor include race tracks subject to the supervision of the Kentucky Racing Commission, athletic contests in which one of the contesting teams is composed exclusively of students of any educational institution in Kentucky, public bathing places and swimming pools owned and operated by municipalities, *or places consisting of natural formations of a scenic or historical value.*

(2) "Sale" includes the transfer or exchange for valuable consideration of services of any kind.

(3) "Professional entertainers" means persons who receive pay in money or money's worth for their performances.

(4) "Proprietor" means any person who owns, operates or manages a place of amusement and/or entertainment.

(5) "Department" means the Department of Revenue.

By Mr. Lyon.

H. B. 150. AN ACT providing for the election of County School Superintendents; fixing their qualifications, compensation and term of office; prescribing their duties; providing for the appointment of Assistant Superintendents, Assistants and Clerks of the Superintendent, and repealing Sections 4399-34 and 4399a-10a of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. At the regular November election held in November, 1941, and every four years thereafter there shall be elected in each County in this State, a County Superintendent of Public Schools, who shall assume office on the first Monday in January, 1942, and hold office for a period of four years, and until his successor has been elected and qualified.

No person shall be eligible for the office of Superintendent of County Schools who does not at the time of his election hold a bachelor of arts or science degree from a standard college or university, and who has not had at least two years of successful school administration experience either as the executive director, superintendent or principal of some accredited high school.

Voters in Independent Graded School Districts which are maintained separate and distinct from the common schools of the County, whether or not such Independent Graded Schools Districts be embraced in any incorporated city, shall not be eligible to vote in the election of such County

School Superintendent. Only legal voters of county school districts are eligible to vote for said county school superintendent.

A Superintendent of Schools may be removed for cause by a vote of four members of the County Board of Education, provided that written notice setting out the charges for removal shall be spread on the Minutes of the Board, and given the Superintendent fifteen days before action is taken on his removal.

The Superintendent shall be the executive agent of the County Board of Education, and shall meet with the Board except when the administration of his office is under consideration.

His compensation shall be determined by the County Board of Education, to be paid from County School funds in equal monthly installments, but it shall not be less than $1,200.00 per year.

Said Superintendent shall see that the laws relating to the schools, the by-laws, rules and regulations of the State Board of Education, and the regulation and policies of the district Board of Education are carried into effect. He shall be the professional advisor of the Board in all matters, and under the direction of the Board, shall prepare all rules, regulations, by-laws and statements of policy, specific and general for the Board for its approval and adoption. The Superintendent of Schools shall have general supervision, subject to the control of the Board of Education, of the general conduct of the schools, the course of instruction, the management of teachers, the discipline of pupils, and the management of the business affairs of the County Board of Education.

The Board of Education, may, on the nomination of the superintendent of schools, appoint as many assistant superintendents as it deems necessary, whose compensation shall be fixed by the Board, and who may be removed for cause by the superintendent, with the approval of three members of

the Board of Education. Except as provided under Sections 4399-7 to 4399-11, Carroll's Kentucky Statutes, 1936 edition, all appointments, promotions, transfers and dismissals of principals, supervisors, teachers, and other public school employees shall be made only upon the recommendation of the superintendent of schools, subject to the approval of the board; provided that supervisors, principals, and teachers shall not be employed for a period of longer than one year. In the event the Board of Education cannot agree with the superintendent as to any certificated person recommended by such superintendent, such Board of Education may appeal to the State Board of Education to review the case and the decision of the State Board of Education shall be final. The superintendent shall have the power to suspend any teacher or other employee for cause deemed by him sufficient, and the Board of Education shall take such action upon the restoration or removal of such person as it may deem proper. All employees of the Board shall have such qualifications as may be prescribed by law and by the regulations of the State Board of Education and/or of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the Board of Education for any school year at any time after the first day of April next preceeding the begining of the school year.

The superintendent of schools shall devote himself exclusively to his duties and may appoint necessary clerks, whose number and salaries shall be determined by the Board, and may remove them. He shall exercise general supervision of the schools of his district, examine their condition and progress and shall keep himself informed of the progress in other districts. He shall prepare or have prepared all budgets, salary schedules, and other reports required of his board by the State Board of Education. He shall advise himself of the need of extension of the school system of the district, shall receive and examine reports from teachers and other school officers, and shall make reports from time to

time as required by the rules of his board or as directed by the board, and he shall be responsible to the board for the general condition of the schools.

Any outgoing superintendent shall make all reports required by law to date of his retirement and shall have information assembled to date of his retirement for any other reports to be made by the incoming superintendent before the last month's salary of the outgoing superintendent is paid. Failure to comply with the provisions of this section shall be grounds for the revocation of the superintendent's certificate. Any superintendent who is guilty of a violation of this section shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense.

§ 2. Sections 4399-34 and 4399a-10a of Carroll's Kentucky Statutes, 1936 Edition, are repealed.

By Mr. Daugherty.

H. B. 151. AN ACT to repeal, amend and re-enact Section 2089L-3, 2089L-4 and 2089L-5 of Baldwin's Kentucky Statutes, Carroll's 1939 Edition; relating to the incorporation and regulation of non-profit Hospital Service Corporations and to provide that all proposed Articles of Incorporation be approved both by the state Commissioner of Insurance and the state Commissioner of Health before being filed in the office of the Secretary of State or recorded in the County Clerk's office of the County wherein the principal place of business of the corporation is located and to provide that the State Board of Health be authorized to make rules and regulations for the registration and approval of hospitals for the protection of the Public Health and their utilization by non-profit Hospital Service Corporations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Sections 2089L-3, 2089L-4 and 2089L-5 of Baldwin's Kentucky Statutes, Carroll's 1939 Edition, be and the same is hereby repealed, amended and re-enacted, so that when repealed, amended and re-enacted is should read as follows:

Any corporation organized under the provisions of this Act for the purpose of establishing, maintaining and operating a non-profit hospital service plan whereby hospital service, not including medical care, may be paid for by said corporation to any hospital registered with and approved by the state Commissioner of Health as having the facilities to provide adequate hospital service, including hospitals maintained by the State or by any of its political subdivisions or maintained by a corporation, organized for hospital purposes under the laws of this State, or a private hospital, to those persons who become subscribers to such plan under a contract which entitles each subscriber to certain hospital care, shall be governed by this Act, and shall be exempt from all provisions of insurance code of this State, not otherwise specifically designated herein and no amendment to said code shall apply to them unless they be expressly designated therein; Provided, that nothing in this Act shall be construed so as to permit a hospital, public or private or other corporation to engage in the practice of medicine, in violation of the Medical Practice Acts.

Persons desiring to form a non-profit hospital service corporation shall incorporate under the provisions of this Act, and according to the method and the manner prescribed by Sections eight hundred seventy nine (879), eight hundred eighty (880), eight hundred eighty-one (881), eight hundred eighty two (882) and eight hundred eighty three (883) of Carroll's Kentucky Statutes, Baldwin's Nineteen hundred thirty-six (1936) Edition: PROVIDED that no superintendent, or other employee of any public or private hospital shall be a director of such a non-profit hospital service corporation and PROVIDED further that no hospital, public

or private shall participate in the forming of any such corporation as is herein provided.

The articles of incorporation of every non-profit hospital service corporation shall be presented both to the Commissioner of Insurance and the Commissioner of Health for approval by them, which approval shall be endorsed thereon in writing before the same shall be filed either in the office of the Secretary of State, or recorded in the County Clerk's Office of the County wherein the principal place of business of the corporation is located. No such corporation shall begin business under this Act until it shall have deposited with the Commissioner of Insurance securities haveing a cash value in the sum of five thousand ($5,000.00) dollars which shall be held by said Commissioner of Insurance to insure that it will faithfully comply with its contracts for hospital service, such securities to remain in the custody of the said Commissioner of Insurance during the corporate life of such corporation. For each additional two thousand (2,000) members or fraction thereof, in excess of five thousand (5,000) members, the corporation shall deposit with the Commissioner of Insurance an additional surety having a cash value of one thousand ($1,000.00) dollars for the same purposes as the original securities deposited for which is provided for herein, which bonds shall be retained during the corporate life of such corporation, or as long as such increase obtains.

Section V. Any corporation subject to the provisions of this Act shall pay for hospital service to its subscribers holding certificates in accordance with the provisions of such certificates in any hospital in this State registered with and approved by the state Commissioner of Health as hereinbefore provided, PROVIDED that hospital service is defined as meaning hospital care without medical attention. The State Board of Health is hereby authorized to adopt such rules and regulations for registration and approval of hospitals as it may deem necessary for the protection of the

public health and for the purposes of this Act. The rates charged by such corporation to the subscriber for hospital service shall, at all times be subject to the approval of the State Commissioner of Insurance. In order that such corporation shall remain solvent, all costs in connection with the conduct of such corporation, including the solicitation of subscribers to such hospital service plan and all salaries and expense allowances, shall, at all times, be subject to the approval of the Commissioner of Insurance. No form of certificate shall be issued to subscribers until it has been approved by the state Commissioner of Health.

No hospital, public or private, in this State, shall enter into any contract for hospital service after the passage of this Act unless said contract has been approved in writing by the State Commissioner of Health under such rules and regulations as may be adopted and promulgated by the State Board of Health, which rules and regulations shall include provisions for the maximum number of individuals which may hold contracts with such hospital.

The State Commissioners of Health and Insurance shall be guided solely by public necessity and public interest and welfare in approval or disapproval of said articles of incorporation.

By Mr. Scheben.

H. B. 152. AN ACT amending Section 1459 Carroll's Kentucky Statutes, Baldwin's revision of 1936, being a part of the laws enacted by the General Assembly in 1918, Chapter 37 at page 106, Section 3 governing the publication, stating of the question upon the ballot and submission of constitutional amendments for vote of the people, and the duties of the Governor, Attorney General and Secretary of State pertaining thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

"Whenever a constitutional amendment or other public measure is proposed to be voted upon by the people, the substance of such amendment or other public measure shall be clearly indicated upon the ballot and two spaces shall be left upon the right of the same, one for votes favoring the amendment, or public measure, to be designated by the word "Yes and one for votes opposing the amendment or measure, to be designated by the wor "No." The elector shall designate his vote by a cross mark thus (X), placed opposite the word "Yes", or the word "No." Whenever an amendment to the Constitution has been adopted by the General Assembly, the Governor, Attorney General and Secretary of State shall cause such proposed amendment to be published at least four times in two newspapers of general circulation, published in the State, and shall also cause to be published at the same time and in the same manner the fact that said constitutional amendment will be submitted to the voters for their acceptance or their rejection at the next general election at which members of the General Assembly are to be voted for. Such publication shall be made so that the last publication shall be at least (90) ninety days preceding the election at which said amendment is to be voted on, as provided in Constitution, Section 256 and 257. It shall be the duty of the Attorney General to state the substance of the amendment to be voted upon in the form of a question in manner calculated to inform the electorate of the substance of the amendment, to certify the said question as stated to the Secretary of State, for inclusion upon the ballot as hereinafter provided. It shall be the duty of the Secretary of State to certify, not less than 40 days before the next general election at which members of the General Assembly are to be chosen, the substance of the constitutional amendment to be voted on as stated and certified by the Attorney General, to the county clerk of each county, and it shall be the duty of each county

clerk to have the substance of such amendment as certified by the Secretary of State, indicated on the ballot, as provided in this section. The votes cast for and against such constitutional amendments shall be counted and canvassed and certified to the state canvassing board in the same manner as the votes cast for any officer elective by the votes of the whole state. If it shall be found that a majority of the votes cast for and against said amendment are in favor thereof, then said amendment shall become a part of the Constitution. The result of such votes shall be published by the Secretary of State in two daily newspapers of general circulation, published in this Commonwealth. The expenses of the publications herein provided for shall be paid as are the expenses of other publications which the Secretary of State is required to make in connection with elections."

By Mr. Swope.

H. B. 153. AN ACT to amend sections 2, 10 and 19, of Chapter 105 of the Acts of 1938, compiled as sections 4767a-1, 4767a-8 and 4767a-17 of Baldwin's Kentucky Statute Service, May 1938, relating to wages of women and minors.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2 of Chapter 105 of the Acts of 1938, campiled as section 4767a-1 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

4767a-1. *Definitions; scope of Act.* (1) As used in this Act unless the context requires otherwise:

(a) "Commissioner" means the Commissioner of Industrial Relations.

(b) "Wage board" means a board created as provided in section 4767a-4.

(c) "Woman" means a female twenty-one years of age or over.

(d) "Minor" means a male or female under twenty-one years of age.

(e) "Occupation" means an industry, trade, or business or branch thereof or class of work therein in which women or minors are gainfully employed, but does not include domestic service in the home of the employer or labor on a farm.

(f) "An oppressive and unreasonable wage" means a wage which is both less than the fair and reasonable value of the services rendered and not sufficient to meet the minimum cost of living necessary for health.

(g) "A fair wage" means a wage fairly and reasonably commensurate with the value of the service rendered. In establishing minimum fair wages under this act the commissioner and wage board, without being bound by the technical rules of evidence or procedure shall take into account the cost of living and all other relevant circumstances affecting the value of the service or class of service rendered, and shall consider the wages paid in the state for work of like character by employers who voluntarily maintain minimum fair wage standards.

(h) "A directory order" means an order the violation of which is not subject to the penalties prescribed in subsection (b) of section 4767a-16.

(i) "A mandatory order" means an order the violation of which is subject to the penalties prescribed in subsection (b) of section 4767a-16.

(2) The provisions of this Act do not apply to:

(a) Persons subject to regulation by the Public Service Commission, or

(b) Employers whose women and minor employees do not exceed ten.

§ 2. Section 10 of Chapter 105 of the Acts of 1938,

compiled as section 4767a-8 of Baldwin's Kentucky Statute Service, May 1938, is amended to read as follows:

4767a-8. *Mandatory order; exemption.* (1) At any time after a directory minimum fair wage order has been in effect for three months, if the commissioner believes that the persistent nonobservance of the order by one or more employers is a threat to the maintenance of fair minimum wage standards in any occupation, the commissioner may give notice of his intention to make the order mandatory and announce a public hearing, to be held not sooner than fifteen nor more than thirty days after the announcement, at which persons in favor of or opposed to a mandatory order may be heard by the commissioner. After the hearing the commissioner may make the previous directory order or any part of mandatory and publish it.

(2) When an order is made mandatory any employer affected by it may file with the commissioner, on forms prescribed by the commissioner, a list of ten employees, showing their names, ages, addresses, the wages paid to them, and such other information as the commissioner may require. The employer shall not be required to comply with the mandatory order with respect to the employees whose names he has so placed on file with the commissioner. The employer may at any time substitute another employee in lieu of one exempted from the mandatory order under the provisions of this subsection by notifying the commissioner and giving the same information about the substituted employee.

§ 3. Section 19 of Chapter 105 of the Acts of 1938, compiled as section 4767a-17 of Baldwin's Kentucky Statute Service, May 1938, is amended to read as follows:

4767a-17 *Collection of wages.* If any woman or minor worker is paid by his employer less than the minimum fair wage to which he is entitled under or by virtue of a mandatory minimum fair wage order he may recover in a civil action the full amount of such minimum wage less any amount

actually paid to him by the employer together with costs and such reasonable attorney's fees as may be allowed by the court, and any agreement between him and his employer to work for less than such mandatory minimum fair wage shall be no defense to such action. At the requisition of any woman or minor worker paid less than the minimum wage to which he was entitled under a mandatory order the commissioner may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action.

By Mr. Moebus.

H. B. 154. An Act to provide for the payment of costs in advance in quarterly courts in counties containing a city of the second class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. At the time a civil action commencing with original process is filed in a quarterly court in a county containing a city of the second class, the clerk shall collect two dollars, if the initial court costs, including fees for serving process, do not exceed two dollars; or, if the initial costs and fees exceed two dollars, the clerk shall collect a sum equal to the initial costs and fees. Thereafter during the action, each time a party procures process or notice to be served, the clerk shall collect from him a sum equal to the fee for serving the process or notice. Sums collected by virtue of this Act shall be credited on the costs in the action in which collected and are

in addition to the taxes imposed by subsection (g) of section 4238.

By Mr. Vance.

H. B. 155. An Act to amend and re-enact Sections 2554c-1, 2554c-2, 2554c-4, 2554c-5 and 2554c-6 of Baldwin's Kentucky Statutes Annotated, Baldwin's 1936 Revision and Baldwin's Kentucky Statute Service Supplement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 2554c-1, 2554c-2, 2554c-4, 2554c-5 and 2554c-6 of Baldwin's Kentucky Statutes Annotated, Baldwin's 1936 Revision and Baldwin's Kentucky Statue Service Supplement, be amended and re-enacted so that said Sections when amended and re-enacted shall read as follows:

Section 2554c-1. Definition. As used in this Act, the following terms, unless the text otherwise indicates, shall have the following meanings respectively:

(a) "Local Option Territory" or "Territory" means such county for which a petition shall be filed asking for an election to take the sense of the voters regarding the sale, barter and loan of intoxicating liquors as provided, and such governmental unit where a majority shall have voted in favor of prohibiting the sale, barter or loan of said liquors or the possession or transportation thereof.

(b) "Spirituous, vinous or malt liquors" means respectively, intoxicating liquor. "Intoxicating liquor" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter and wine and in addition thereto any spirituous, vinous, malt, or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called,

containing more than one percentum of alcohol by volume, which are fit for use for beverage purposes.

(c) The word "person" includes singular and plural number, and shall mean and include a natural person, association, co-partnership or corporation.

(d) "Election" means an election to be held for the purpose of taking the sense of the people as to the prohibition or permission of the sale, barter or loan of spirituous, vinous or malt liquors in any territory.

(e) "Prohibition" means that the sale, barter or loan of intoxicating liquors have been rendered unlawful under the terms of this Act.

(f) "Local Option Law" refers to the provisions of this Act. Provided, however, that the definition of spirituous, vinous or malt liquors and intoxicating liquors as used in this Act shall not apply to malt beverages in any county now legally Dry Under the Local Option Act, same being Chapter 1 of the Acts of the 1936 regular session of the General Assembly of this Commonwealth, but which shall hereafter become legally Dry, if there shall be held in the manner hereinafter set out, a referendum in which the sense of the legal voters of such county may be taken, at which said referendum a majority of the votes cast shall be in favor of the sale in such county of non-intoxicating malt beverages containing not more than three and two-tenths (3.2) percentum of alcohol by weight. In any county which may become legally Dry under the Local Option Act, a referendum shall be held whenever a petition is filed in the county clerk's office of the county in which it is elected to hold a referendum and to which such petition there are attached signatures of voters of the local option territory in which a vote is asked, equal in number to twenty-five (25) per cent of the total number of votes cast in the last regular election in said territory, designated by the petition to be voted in, at the next regular term of the county court following the filing of the petition, and said referendum

shall be held on the date specified in the petition, which may be any date on which such an election may be held under the Constitution of the Commonwealth. Such referendum shall be held in substantially the same manner as are other elections and there shall be submitted to the voters in the territory where such referendum is held a question in substantially the following form, to wit: "Are you in favor of the sale of nonintoxicating malt beverages containing not more than three and two-tenths (3.2) percent of alcohol by weight?" In the event a majority of legal voters cast in a referendum held under the provision of this Act are in the affirmative, then nonintoxicating malt beverages containing not more than three and two-tenths (3.2) percentum of alcohol by weight, shall be held legal in the territory in which said referendum was held. If a majority of the legal votes cast in such referendum election shall be in the negative, then the sale of such malt beverages shall continue to be illegal until the next local option election and referendum, if such be necessary to determine the sense of the legal voters on the question legalizing the sale of malt beverages as provided in this Act. The votes cast in the referendum shall be counted and certified in the same manner as the votes in other elections. The petition calling for the referendum shall be filed not less than twenty-five, not more than sixty, days before the day specified for the holding of the referendum, and such referendum shall be advertised for a period of at least two weeks in at least two issues of a newspaper of general circulation printed and published in the county in which said referendum is called, or if there be no newspapers printed and published therein, by posting handbills in at least five conspicuous places in every precinct in which the referendum is to be held. The advertisement shall describe the time and place for the holding of the referendum and the question to be voted upon must be stated in full. Irrespective of Title of Article headings or the language used, it is the legislative intent to protect territory which is legally dry at the time of

the passage of this Act, or which may hereafter become dry in accordance with the local option laws, and no referendum shall be held in such legally dry territory until the termination of the three year period for which a local option election holds, such three years being determined by the date on which such local option election was actually held. The referendum provided for in this Act can only be called providing the local option election has banned intoxicating liquors from the territory or governmental unit in which the referendum is called, and then only to determine whether it is the sense of the voters that a nonintoxicating malt beverage containing not more than three and two-tenths (3.2) percentum of alcohol by weight shall be permitted. If any part or paragraph of this Act shall be held unconstitutional such decision shall not affect the constitutionality of the balance of the Act as it is declared to be the legislative intent to enact each sentence, part and paragraph separately.

Section 2554c-2. Petition for Election. Upon application by written petition filed with the clerk of the county court of any county signed by a number of legal voters in said county equal to twenty-five (25) per cent of the votes cast in said territory at the last preceding general election, it shall be the duty of the judge of the county court of such county at the current or the next regular term of said court thereafter to make an order on the order book of said court directing an election to be held in such county to be affected thereby, for the purpose of taking the sense of the legal voters of such county upon the proposition whether or not spirituous, vinous or malt liquors shall be sold, bartered or loaned therein.

Section 2554c-4. Day of Election. The day upon which the election shall be held may be stated in the petition. If it is not so stated, it shall be designated by the county judge; provided

(a) The election shall not be earlier than sixty days

or later than ninety days after the date said application is lodged in the office of the clerk of the county court.

(b) The election shall not be held on the same day that a primary or general election is held in the territory or any part thereof, nor within thirty days next preceding or following a regular political election.

(c) No election shall be held in the same territory oftener than once in every three years.

Section 2554c-5. Notice of Election. Within five days after said order of the county court calling an election is made, it shall be the duty of the county clerk to give to the sheriff of the county a certified copy of the same. It shall then be the duty of the said sheriff to have same published in some weekly or daily newspaper published in the county for at least two weeks before the election, and also to advertise same by written or printed handbills posted at not less than five conspicuous places in each precinct of the county for the same length of time. In case there is no daily or weekly newspaper published in the county, or the proprietor of such newspaper refuses to publish said advertisement, the printed or written handbills posted as herein provided for shall be sufficient. It shall be the duty of the sheriff to report in writing to the county court that the notices have been duly published and posted.

Section 2554c-6. Form of Ballot. The proposition to be voted upon shall be stated on the ballot without emblems and two spaces left upon the right side of same, one for votes favoring the proposition to be designated by the word "Yes," and one for votes opposing it to be designated by the word "No." The elector shall designate his vote by a cross mark, thus (X), placed opposite the word "Yes" or the word "No." Whenever at the time of the election intoxicating liquor is being legally sold in the territory the form of the proposition may be thus stated:

Are you in favor of adopting YES ☐
the local option law in NO ☐
.....(name of county)

Whenever at the time of the election intoxicating liquor is not being legally sold in the territory the form of the proposition may be thus stated:

Are you in favor of continuing YES ☐
the local option law in effect NO ☐
in .....(name of county)

Ordered that said bills and resolutions be printed and referred.

By order of the Speaker, the privilege of the floor was extended to Mr. T. C. Carroll.

Mr. Ernst moved that the privilege of the floor be extended to Hon. Chas. Regas and Mr. Charles Ernst.

Said motion was agreed to.

Mr. Daugherty of the Committee heretofore appointed by the Speaker to draft suitable resolutions on the death of the Late Honorable J. C. W. Beckham, offered the following resolution, viz.:

To The General Assembly:

Your committees appointed to prepare a memorial and resolutions on the life and death of the late Honorable J. C. W. Beckham, respectfully report:

Few men have served their countrymen for as long a period or in so many high governmental positions as did John Crepps Wickliffe Beckham. None more honorably or faithfully. He was a true son of Kentucky, his genealogy winding back to the earliest settlers. His maternal grand-

father, Charles A. Wickliffe, beginning as a member of the legislature of Kentucky in 1812, laid out a career which would be followed sixty years later in a remarkable way by his illustrious grandson. He also was for several terms a member of the House of Representatives and its Speaker, and as Lieutenant Governor became the Chief Executive upon the death of a governor. He also served in Congress, and closed his political career as a member of a President's cabinet.

With this noble heritage of statesmanship, Mr. Beckham, in 1894, when barely within the constitutional age of twenty-four years, became a member of this General Assembly as the representative from Nelson County. In 1898 he was chosen Speaker.

In 1899, in a bitter political contest, which required a final decision by the General Assembly, he was elected Lieutenant Governor of Kentucky. Upon the assassination of Governor Goebel, Mr. Beckham became Governor at the age of thirty-one years. In the ensuing period, amid the most violent storm of personal and political strife the state has ever experienced, the young governor conducted himself and performed his arduous and unprecedented duties with a rare courage, calmness and ability, commanding the respect and confidence of the people and the approbation of history. Again in 1904, he was elected governor, thus serving in that office eight years, lacking a few days. As such, Governor Beckham instituted and perfected many great reforms in the state government, particularly in the taxing and educational systems, in public health regulations, the eleemosynary institutions and other important departments and agencies of the government. He conceived and started the erection of the new capitol with funds collected from the federal government, which had been owing since the days of the Civil War. A catalog of his accomplishments need not be here made. His record is to be found in the annals of the Commonwealth.

Later, Governor Beckham was elected to represent the State as a United States Senator. In that capacity he continued to serve the people of the state and nation ably and fearlessly, enjoying the confidence and esteem of President Wilson and his colleagues. It was during his term that the World War was declared and successfully waged.

After his retirement and a period of private life, in which he engaged in the practice of law in Louisville, his wisdom and experience was commandeered and utilized in the reorganization of the state government in 1936. He was at once called by Governor Chandler to become the first Commissioner of Industrial Relations, and as such Chairman of the Public Service Commission. He remained in that office until his death on January 9, 1940.

Thus, intermittently for nearly fifty years, Mr. Beckham served his native state with unexcelled fidelity and distinction. Few have left such a mark of constructive statesmanship upon contemporary history. Throughout his long political career, no spot marred his escutcheon, nor breath of scandal tainted his character. He ever remained steadfast in his convictions of what was right and honorable. Put to the test, he never swerved from the performance of what he conceived to be the proper discharge of his trust and responsibility to the people who had chosen him. Of aristocratic lineage, he never forgot that he was of all the people. His life was characterized by the graces of culture and dignity, without loss of fraternal touch with his fellowmen. A long and honorable career of public service has closed, and a good man gone to perform the destiny of the race.

Be it Resolved that the Senate and the House of Representatives express the appreciation of the Commonwealth for the noble life and character of a "good and faithful servant," and extend to the bereaved family of Senator Beckham the sincere condolences of its members.

Be it further resolved that a copy of this memorial be transmitted to the family of the deceased, and that it be spread on the journals of the two bodies.

Respectfully submitted:

FRANK E. DAUGHERTY, *Chairman*
HENRY WARD
J. LEE MOORE
JOE E. ROBINSON
HARRY R. WALTERS
Committees

Said resolution was unanimously adopted by the House.

By order of the Speaker, the privilege of the floor was extended to Judge McAfee, County Attorney Ridgway, and Squire Robert Cornell of Bullitt county.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 114. An Act relating to old age assistance, repealing section 3766bb-11 of Carroll's Kentucky Statutes, 1936 Edition, and Chapters 56 and 57 of the Acts of 1938 and abolishing existing liens and reimbursements agreements executed by old age assistance recipients.

H. B. 123. An Act relating to revenue and taxation, and repealing, amending and re-enacting Section 1 of Chapter 63 of the Acts of 1938 Regular Session of the General Assembly.

H. B. 119. An Act to repeal, amend and re-enact Section 4281c-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to revenue and taxation.

H. B. 117. An Act relating to revenue and taxation and more especially repealing, amending and re-enacting section

4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and repealing Sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and declaring an emergency to exist.

H. B. 34. An Act entitled An Act to amend Section 606 of the Civil Code of Practice.

H. B. 2. An Act to amend and re-enact Chapter 65, Acts of the General Assembly of 1932, and to change and fix the time of terms of court in the Tenth Judicial District.

H. B. 93. An Act to repeal, amend and re-enact sections 3049, 3118, 3119, 3126, 3133, 3143, 3144, 3144a and 3166 of the Kentucky Statutes, Carroll's 1936 Edition, all of which sections are a part of the Charter of Municipalities of the second class relating to the councilmanic form of government; and declaring an emergency to exist.

H. B. 13. An Act to amend and re-enact Section 244, Kentucky Criminal Code of Practice, relating to the keeping together and separation of jurors.

H. B. 54. An Act to license and regulate the standing of animals for public service.

With a Committee amendment thereto by way of Substitute therefor.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a resolution entitled:

S. Res. 5. Resolution providing for additional compensation for officers and employees of the House and Senate.

Said resolution is as follows, viz.:

WHEREAS, the General Assembly deems the compensation of the officers and employees of the Senate and the House of Representatives, as provided for in Chapter 88 of the Acts of the General Assembly of 1936, inadequate for the proper functioning of the business of the Senate during 1940 regular session,

Now, therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That there is hereby appropriated from the Legislative Session Fund as additional compensation for the following officers and employees of the Senate and the House of Representatives: Assistant Clerk, Enrolling Clerk, Sergeant at Arms, Doorkeeper, Cloakroom Keeper, Janitor and Pages, to that compensation as provided for in Chapter 88 of the Acts of the General Assembly of 1936, the sum of Thirty Dollars ($30.00) per diem, for each body, for the duration of the 1940 regular Session.

§ 2. That the aforesaid amount shall be prorated among the aforenamed constitutional officers and employees, according to the per diem set forth in Chapter 88 of the Acts of the General Assembly of 1936, and shall be by the Department of Finance charged to the account of the aforenamed officers and employees of the Senate and the House of Representatives on this basis.

§ 3. That the Clerk of the Senate and the Clerk of the House of Representatives are directed to issue vouchers to the Commissioner of Finance, who shall draw his warrant in

favor of the Clerk of the Senate and the Clerk of the House of Representatives for the above mentioned amounts, and that the Clerk of the Senate and the Clerk of the House of Representatives are further directed to distribute the additional compensation to the above mentioned officers and employees as provided in Chapter 88 of the Acts of the General Assembly of 1936.

WHEREAS, it is necessary that this additional compensation be received by the officers and employees of the 1940 regular Session in order to properly expedite the business of the Senate and the House of Representatives, an emergency is hereby declared to exist and this Resolution shall be effective from and after its passage and approval by the Governor of the Commonwealth of Kentucky.

Ordered that said resolution be read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	C. J. Bronston	Stanley S. Dickson
J. Everett Bach	Gus A. Brooks	Forest C. Easley
H. T. Baker	Randolph A. Brown	D. E. Edwards
G. M. Ballard	Haynes Carman	R. R. Ernst
Robert E. Barry	Charles M. Carter	Carlos Fallis
Wm. T. Beard	James W. Chapman	T. P. Fitzpatrick
Rell Bevins	S. B. Chrisman	Wayne Freeman
Sterling B. Blake	John Coulter	Eugene Gough
Douglas T. Bolling	Pink G. Curd	Van Y. Greene
J. F. Bosworth	W. Q. Daniel	Ralph C. Hamilton
W. S. Brim	F. E. Daugherty	C. L. Hammons

T. H. Hickey	Stanley C. Mocbus	Otto Smither
Clyde S. Howard	John B. Mollette	G. C. Springate
Chester Huffines	Davis Moore	J. Claude Stacy
John M. Hunnicutt	J. Lee Moore	Ray J. Stengel
W. H. Hunt	Joe T. Morgan	Henry Stewart
R. L. Jackson	C. Homer Neikirk	W. St. Clair Stuart
J. B. Jarboe, Jr.	Carl D. Perkins	T. M. Swope
Chas. X. Jones	B. W. Porter	Otis C. Thomas
John S. Juett	H. O. Porter	Erna E. Tyra
William K. King	Kleber F. Price	J. Wood Vance
W. A. Lamkin, Jr.	Hobart Rayburn	Walter R. Vansant
Robert E. Lee	Thomas Rigdon	S. J. Wagner
Harvey D. Leonard	W. H. Riley	Porter Wallace
Edward Leslie	Joe E. Robinson	Harry F. Walters
Paul W. Lyon	Lyman Roll	Henry Ward
C. C. May	Jack Savage	H. L. Waterfield
T. B. McConnell	Carl Scheben	Otis White
Frank C. McElwain	Leon J. Shaikun	James H. Woods
E. Hayes McMakin	Ray O. Shehan	
Norris McPherson	Faust Y. Simpson	—91

There voted in the negative—

Alvis S. Bennett —1

Mr. Hunnicutt offered the following amendment to the title of said resolution, viz.:

Amend S. Res. 5 in House by adding thereto as a title, the following:

"A resolution appropriating additional salary for certain employees of the House of Representatives and the Senate out of the Legislative Fund."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Hunnicutt moved that the vote by which said resolution was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration a resolution which originated in the Senate and which was reported to this House on yesterday, as follows, viz.:

S. Res. 9 (For resolution see House Journal of yesterday, January 16)

Said resolution was then concurred in.

Mr. Joe Robinson moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Thomas moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills and resolutions were introduced, viz.:

By Mr. May.

H. B. 156. An Act relating to elementary certificates for teachers in the Commonwealth of Kentucky and to repeal,

amend and re-enact subsection 1 of Section 4502-3 Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That sub-section one of section 4502-3 Carroll's Kentucky Statutes, 1936 edition be, and the same, is hereby repealed, amended and re-enacted so when amended and re-enacted said section shall read as follows:

Provisional Elementary Certificates. The provisional elementary certificate, valid for two years, shall be issued to a person who has completed a curriculum of one year (32 semester hours) for the training of elementary teachers in a standard college or university, and which curriculum meets the minimum standard prescribed by the State Board of Education for the issuance of such certificate. This certificate may be renewed or re-issued after two years' teaching experience upon the presentation of one-half year (16 semester hours) of additional standard college or university work earned during the life of the certificate and prescribed in the same manner as for the original issue, and may be renewed thereafter upon the presentation of one-half year (16 semester hours) of additional standard college or university work earned during the life of the certificate and prescribed in the same manner as for the original issue.

By same.

H. B. 157. AN ACT relating to Game and Fish, and amending sections 16 and 17 of Chapter 107 of the Acts of 1938, compiled as sections 1954d-16 and 1954d-17 of Baldwin's Kentucky Statute Service, May, 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 16 of chapter 107 of the Acts of 1938, compiled as section 1954d-16 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

1954d-16. *Licenses and license fees; date of non-resident licenses; badge worn.* (1) The fees required for licenses provided for by this Act shall be as follows:

As to residents of Kentucky:

Hunting and fishing license	$ 1.00
Trapping license	1.00
Seining license and on tag for 100 feet of seine or part thereof	5.25
Additional tags per 100 feet of seine or part thereof	2.00
Hoop net license	1.25
Each additional hoop net	1.00
Fur buyers or dealers	2.00

As to non-residents of Kentucky:

Hunting license (season)	$10.50
Fishing license (season)	2.50
Fishing license (for seven consecutive days)	1.00
Trapping license	10.50
Seining license	10.50
Tags per 100 feet of seine or part thereof	4.00
Hoop net license	2.50
Each additional hoop net	2.00
Fur buyers or dealers	75.00

In each of the non-resident, seven consecutive day licenses issued, the County Clerk shall state the day such licenses begin.

(2) No person shall take or trap for any wild animals or fish or take wild birds without having the license provided

therefor in his possession and the button or badge provided therewith attached to the outside of his clothing in a conspicuous manner and upon the failure to do so he shall be fined not less than fifteen dollars, nor more than one hundred dollars for each offense.

§ 2. Section 17 of chapter 107 of the Acts of 1938, compiled as section 1954d-17 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

1954d-17. *County clerk's fees; disposition of fees; issuance of license.*

(1) The County Court Clerk shall retain of money received for each resident *hunting and fishing license,* for each resident trapping license, for each non-resident seven day fishing license, for each additional tag for each additional 100 feet of seine or part thereof, and for each additional hoop net license the sum of fifteen (.15c) cents; for each seining license and one tag for 100 feet of seine or part thereof, for each hoop net license, and for each non-resident season fishing license the sum of twenty-five cents (.25c); for each non-resident hunting license, for each non-resident seining license and one tag for 100 feet of seine or thereof, the sum of fifty cents (.50c). The fees above provided shall cover the swearing of the applicant to the affidavit referred to in this Act, and all other services under this Act. The County Clerk shall pay the balance remaining after deducting his fees, to the State Treasurer, on the first of each month, which amount shall be converted into the Game and Fish fund, and shall report to the Director on the first day of each month the number and kind of licenses and tags issued and the amount of money remitted to the State Treasurer.

(2) The County Court Clerk shall issue all licenses and tags, except as is otherwise herein provided, to all applicants complying with the provisions of this Act, but only on written application subscribed and sworn to before the Clerk upon forms provided by the Division. The Clerk shall sign the

licenses and require the person to whom the licenses and tags are issued to sign his name on the margin thereof. The Clerk shall keep a correct and complete copy of all licenses issued in a book to be furnished by the Division, which record shall remain in his office and be open to the inspection of the public during all office hours.

By Mr. Curd.

H. B. 158. An Act to amend section 1234 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

(1) That section 1234 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition is amended to read as follows:

If an offense mentioned in section 1232 or 1233 was committed by a convict confined in the Kentucky State Penitentiary at Eddyville, the Lyon Circuit Court shall have jurisdiction; if the offense was committed by a convict confined in the Frankfort Division of the Kentucky State Reformatory at Frankfort, the Franklin Circuit Court shall have jurisdiction; if the offense was committed by a convict confined in the Women's Division of the Kentucky State Reformatory in Shelby County, the Shelby Circuit Court shall have jurisdiction; if the offense was committed by a convict confined in the Kentucky State Reformatory at La-Grange or assigned to work in camps or other institutions in any county of the State, the Oldham Circuit Court shall have jurisdiction.

By Mr. Huffines.

H. B. 159. AN ACT to amend Chapter ninety-four of

the Acts of 1936 and Chapters fifty-six, fifty-seven, and fifty-eight of the Acts of 1938, relating to Old Age Assistance.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter ninety-four of the Acts of 1936 and Chapters fifty-six, fifty-seven, and fifty-eight of the Acts of 1938 are amended to read as follows:

Section 1. *Definitions.*

(1) "Old Age Assistance" means money payments and such services as may be necessary to provide for the welfare of the needy aged;

(2) "Needy Aged" means an aged person who is unable to provide himself, or who does not have otherwise provided for him a reasonable subsistence compatible with decency and health, and who may, or may not, need the services of others in making social adjustments for his welfare;

(3) "Applicant" means a person who has applied for Old Age Assistance under this Act;

(4) "Recipient" means a person who is receiving Old Age Assistance under this Act;

(5) "State Department" means the State Department of Welfare.

Section 2. *Eligibility for Old Age Assistance.* Old Age Assistance shall be granted to any needy aged who:

(1) Has attained the age of sixty-five;

(2) Has been a resident of the State for five of the last nine years and for one year immediately preceding the application for Old Age Assistance;

(3) Is a citizen of the United States;

(4) Is not at the time of receiving Old Age Assistance

an inmate of any public or private institution except for temporary medical or surgical care in a hospital;

(5) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for Old Age Assistance.

Section 3. *Amount of Old Age Assistance to be granted.* The amount of Old Age Assistance which shall be granted to, or for, any needy aged shall be determined with due regard to the resources and requirements of the individual and the conditions existing in each case and shall be sufficient, when added to all other income and support available to the needy aged, to provide the needy aged with a reasonable subsistence compatible with decency and health, provided such old age assistance granted shall not exceed thirty dollars for any month.

Section 4. *Duties of the State Department.*

(1) The State Department shall:

(a) Administer all funds appropriated or made available to it for the purpose of this Act;

(b) Receive and administer such Federal Funds as are made available and shall prepare and submit such reports as may be required by the Federal Government with respect to Old Age Assistance;

(c) Develop standards and policies for Old Age Assistance;

(d) Develop standards of service for the administration of Old Age Assistance in the State;

(e) Coordinate the functions of the several Divisions within the State Department to provide the greatest possible service to the aged;

(f) Cooperate with the Division of Personnel Efficiency in the State Department of Finance in establishing standards for personnel employed in the administration of this Act, and

make rules and regulations necessary to maintain these personnel standards;

(g) Provide such forms, records and reports as are necessary with respect to the administration of this Act.

(2) The State Department shall make such rules and regulations and take such action as may be necessary or desirable from time to time for the efficient administration of this Act and these rules and regulations shall provide for uniform practice of this Act throughout the State.

(3) The Commissioner of Welfare shall appoint in accordance with the Governmental Reorganization Act of 1936 such personnel, professional or otherwise, as are necessary to properly administer this Act.

Section 5. *Confidential Nature of Records.* All applications and records concerning any applicant and recipient and the name of any applicant and recipient shall be confidential, and the State Department shall establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files and communications of the State Department.

Section 6. *Right of Appeal.* An applicant or a recipient of Old Age Assistance, who is dissatisfied with the decision on his application, or because of delayed action on his application, for Old Age Assistance or the amount of Old Age Assistance granted to him may appeal to the State Department in the manner and form prescribed by rules and regulations which shall provide that on receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing.

Section 7. *Old Age Assistance not assignable.* All Old Age Assistance granted under this Act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the State.

Acknowledgment of documents. All representatives of the State Department shall have the power to administer oath to or take the acknowledgment of any person when carrying out the provisions of this Act and when needed for the administration of this Act.

By Mr. Vance.

H. B. 160. AN ACT to repeal, amend and re-enact Section 263b-16 of Carroll's Kentucky Statutes, 1938 Revision, being Section 16 of Chapter I of the Acts, passed by the General Assembly at the Second Extraordinary Session of 1938, and providing for the admission of persons to hospitals and institutions, both voluntary and by request of health officer; also providing for patients returned from other states, and regulating the admission of epileptics, idiots and feeble-minded.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 263b-16 of Carroll's Kentucky Statutes, 1938 Revision, being Section 16 of Chapter I of the Acts, passed by the General Assembly at the Second Extraordinary Session of 1938, be amended and re-enacted so that when so re-enacted it will read as follows:

16. *Voluntary Admission and Admission on Health Officers' Request:*

In addition to existing laws governing commitment and admission to hospitals and institutions, the following provisions for voluntary admission, and admission on health officers' certificates, are hereby enacted:

Voluntary Admissions: Any person thought to be mentally ill may make application in writing, to the superintendent of any hospital for mental diseases, for admission

as a patient to such hospital, and such application shall be signed by the applicant in the presence of at least two witnesses.

If the said superintendent shall be satisfied, after examining the applicant, that he is in need of hospital treatment and will be benefited thereby, and that the mental condition of the applicant is such as to render him competent to make such application, said superintendent may receive and care for the applicant in the hospital.

Such patient shall not be detained against his will for more than ten days from the date that said patient notifies the superintendent either in writing or verbally of his desire to leave said hospital. The superintendent of said hospital, if in his opinion the patient is dangerous to himself or society, shall, within the same ten days, sign a petition for an inquest concerning the sanity of the said patient, as is now provided by law.

Voluntary admissions, as provided for in this Section, shall be paid for by the patient, as now provided by law, except in the cases of pauper patients.

Admission on Health Officers' Request: The superintendent in charge of any state hospital for the mentally ill (except those designated for the care of the criminal insane), shall, when requested by a health officer, receive and care for in such hospital or such institution, as a patient, for a period not exceeding ten days from and inclusive of the date of request, any person who needs immediate care and treatment because of mental derangement other than drug addiction or drunkenness. Such request for admission of a patient, based on a personal examination, must be in writing, and shall be filed at the hospital or institution at the time of his reception. Any such patient who is deemed by the superintendent not suitable for such care shall, upon the formal request of the superintendent, be forthwith removed from the hospital or institution by the health officer, who requested his admission,

within ten days. If, however, the superintendent finds him to be a suitable person for care and treatment, he shall notify the circuit court having jurisdiction, or if the circuit court is not in session, the judge of the circuit or county court, who shall then appoint two medical examiners and shall proceed as in commitment proceedings.

Admission of Patients Returned from other States. Legal residents of the State of Kentucky who have become public charges in other states, and returned to Kentucky by those states because they have been adjudged insane or feeble-minded by the courts of the state returning them, may be immediately admitted to a Kentucky State Hospital or to the Feeble-Minded Institution at the request of any health officer. However, if a health officer is not available for the purpose, the superintendent of the Kentucky State institution may receive such returned legal resident of Kentucky directly from the hands of the out-of-state official who has him in custody. Immediately upon such admission, the superintendent shall notify the Circuit Court, or the County Court if the Circuit Court is not in session, accompanying such notification with a petition for a lunacy inquest, but holding the returned legal resident in his custody until such inquest is ordered by the court; *provided that no superintendent may receive such a person from the hands of the officials of another state until he has been notified by the Director of the Division of Hospitals and Mental Hygiene that the person's legal residence has been investigated and verified by the county judge, or his officially designated agent, of the county in which residence is claimed.*

Admission of Epileptics, Idiots and Feeble-Minded. Hereafter no epileptic, idiot, or feeble-minded person shall be committed to a State Hospital for the insane. But any epileptic or feeble-minded person becoming insane may be committed as an insane person to a State Hospital for custody and treatment therein.

By Mr. Perkins.

H. B. 161. AN ACT to prohibit the taking, enticing, assisting to escape, or the encouraging to escape of lawfully committed inmates from the State Hospitals for the Insane and from the Feeble-Minded Institute; declaring such taking, assisting, enticing, or encouraging a felony; providing the punishment therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any person who shall take a lawfully committed inmate from a State Hospital for the Insane or from the Feeble-Minded Institute without the consent of the superintendent of any such institution or who shall entice, assist, or encourage any such inmate to escape from any such state institution shall be deemed guilty of a felony and upon conviction in the circuit court in the county in which any such escape was effected shall be punished by confinement in the State Penitentiary for a period of not less than one or more than two years.

All laws or parts of laws that conflict herewith are hereby repealed.

By Mr. Freeman.

H. B. 162. An Act providing for the transfer of feeble-minded and/or insane prisoners to State Hospitals and/or Feeble-minded Institute.

Said bill is as follows, viz:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A new section of the statutes is created to be numbered section 263b-12a and to read as follows:

263b-12a. *Transfer of Feeble-minded and or Insane Prisoners to State Hospitals and/or Feeble-Minded Institute.* Whenever an inmate of any penal and correctional institution (the Houses of Reform included) is reported by the warden of that institution to the Director of the Division of Hospitals and Mental Hygiene as being so mentally defective or mentally ill that he can not be properly treated with the facilities at the disposal of the physician, it shall be the duty of the Director of the Division of Hospitals and Mental Hygiene to have a mental examination conducted on such inmate, such examination to be conducted either by the Director himself or some physician of the regular State Hospital service delegated by the Director for that purpose. If this examination reveals that the inmate is in need of observation and treatment on account of mental deficiency or mental illness, and that such observation and treatment can not be properly carried out in the institution in which he is incarcerated, the Director of the Division of Hospitals and Mental Hygiene may then order his transfer to a State hospital or institution for feeble-minded, where he shall remain until the superintendent of the hospital which received him advises the Director of the Division of Hospitals and Mental Hygiene that his condition has so far improved that he may be returned to the institution from which he came without special jeopardy to his mental health or the discipline and conduct of that institution. The Director shall then authorize his return. If the sentence expires during his stay in the mental institution and he is still insane or feeble-minded and a fit subject for commitment to a State institution, the superintendent shall notify the Circuit Court which sentenced him to the penal institution, accompanying such notification with a petition for a lunacy inquest. During the time of a prisoner's stay in a State hospital or institute for the feeble-minded his legal status as a prisoner shall remain unchanged until the termination of his sentence, as provided by the criminal codes governing the discharge, parole, commutation

of sentence and pardoning of persons sentenced to penal and correctional institutions. The superintendent shall have no authority to parole him, grant him permission to visit relatives or friends outside the institution or discharge him, and the time which such a prisoner spends in a State hospital or institute for the feeble-minded, shall be counted as an integral part of his prison sentence and must not be subtracted therefrom.

By Mr. Thomas.

H. B. 163. An Act authorizing independent school districts to annex county subdistricts or parts thereof.

Said bill is as follows, viz:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any independent school district may annex and unite as a part of the independent school district any county subdistrict or subdistricts, or parts thereof, lying adjacent to the independent school district, subject to the following provisions.

The board of education of the independent school district and the county board of education shall designate the territory proposed to be annexed, and submit the question of annexing the territory to the independent school district to a vote of the people residing in the territory proposed to be annexed, and if said proposal shall be adopted by a vote of the majority of the people residing therein, said territory shall become a part of the independent school district.

Provided further that if the board of education of the independent school district or the board of education of the county shall fail or refuse to designate said boundary, or call said election, then if twenty-five (25%) per cent of the voters residing in said territory proposed to be annexed shall petition the board of education to call said election,

same shall be called within sixty days from the filing of said petition, and if at said election there is a majority vote in favor of said annexation, said territory shall become a part of the independent school district.

By Mr. Vance.

H. B. 164. An Act to amend and re-enact Chapter 219 of the Acts of the General Assembly of 1893, Article 1, Section 1, to authorize the issuance of execution and garnishee on personal judgments.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. If a final judgment in personam be rendered in any Court of record in this Commonwealth for an ascertained sum of money, with interest and costs, or for either, a fieri facias may issue thereon which may include garnishment, and the garnishee may be summoned by such writ of fieri facias.

By Mr. Hammons.

H. B. 165. An Act to regulate the caravaning of motor vehicles upon the public highways of this Commonwealth; defining the term "caravaning" and providing for the licensing of motor vehicles in caravan and imposing penalties for violations thereof.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The term "caravaning" as used in this Act shall mean the transportation from without the Commonwealth of any motor vehicle operated on its own wheels, or in tow

of another motor vehicle, for the purpose of selling or offering the same for sale to or by any agent, dealer, manufacturer's representative, purchaser or prospective purchaser, whether such agent, dealer, manufacturer's representative, purchaser or prospective purchaser may be located within or without this state. The caravaning of motor vehicles as herein defined shall be considered as the transportation of property for hire by motor vehicle and shall be subject to all the laws of this Commonwealth relative to the transportation of property for hire by motor vehicle upon the public highways of this Commonwealth.

§ 2. No person, firm or corporation shall use any highway in this state for caravaning motor vehicles unless and until there shall first have been secured from the Department of Motor Transportation of the Commonwealth of Kentucky a special permit as to each vehicle so caravaned, for use of the highways of this Commonwealth in Caravaning such vehicle, which permit shall be displayed by posting the same upon the windshield of such vehicle or in other prominent place thereon where it may be readily legible. It shall be unlawful to operate three or more vehicles or groups of vehicles in caravan unless a space of at least one hundred fifty feet shall at all times be maintained between each vehicle or group of vehicles being so caravaned.

§ 3. As a condition precedent to the issuance of any special permit provided for in the previous section of this Act the Department of Motor Transportation of the Commonwealth of Kentucky shall charge and collect a fee of Seven Dollars and Fifty Cents ($7.50) for each motor vehicle for which a caravan permit may be issued, whether such vehicle be operated under its own power or in tow of another motor vehicle, provided, however, that no such permit shall be issued by the said Department of Motor Transportation unless and until the applicant therefor shall have produced evidence to the satisfaction of said Department of Motor

Transportation that all of the laws of this Commonwealth relating to the transportation of property upon the public highways for hire shall have been complied with.

§ 4. No permit issued under this Act for caravaning motor vehicles or vehicles shall be transferable either as between persons as to the vehicle for which it is issued, and shall only be valid for the trip to be specified, and in no event shall permit be valid for a period more than three days after it shall have been issued. Such permit shall contain such information and be in such form and shall be issued under such rules and regulations as may be prescribed by said Department of Motor Transportation. Such permit shall be conditioned upon the permittee complying with all laws of the Commonwealth of Kentucky.

§ 5. The fee paid for any caravaning permit issued under this Act shall be in lieu of all other registration fees and license fees for the use of the public highways in this Commonwealth by motor vehicle during the period that such motor vehicle may be operated under and in accordance with such permit upon the public highways in this Commonwealth; provided, however, that nothing in this section shall exempt the owner or operator of such vehicle from compliance, except with respect to fees or license charges, with all laws of this Commonwealth now or hereafter adopted, relating to the transportation of property for hire.

§ 6. Any person, firm or corporation complying with Section 2739g-6 of Carroll's Kentucky Statutes, 1936 Edition, shall be exempt from the provisions of this Act.

§ 7. All fees from the issuance of permits collected by the Department of Motor Transportation under this Act shall be paid in the same manner as all other fees are now being paid by the said Department of Motor Transportation.

§ 8. Violation of the provisions of Section 2 or of Section 4 of this Act is a misdemeanor punishable by a fine

of not more than five hundred dollars or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

By Mr. Joe Robinson.

H. B. 166. AN ACT relating to chain stores or multiple mercantile establishments and imposing a license fee on such businesses for the purpose of regulating same and establishing a more nearly equal basis for competition between all persons, firms, corporations or associations engaged in the sale of goods, wares, commodities and merchandise so as to preserve the single unit or independent type of store or mercantile establishment in the interest of the general welfare, by authority of the general police power; to curb and discourage monopolies, trusts, or combinations in restraint of free trade and tendencies toward such monopolies, trusts, or combinations in the interest of the general welfare, by authority of the general police power as well as to fullfill the mandatory duty imposed by section 198 of the Constitution of Kentucky.

Said bill is as follows, viz.:

WHEREAS, chain stores or multiple mercantile establishments enjoy certain specific advantages not common to independent merchants such as: centralized warehousing of goods or distribution from a single warehouse to numerous stores; pooling of buying so as to obtain price advantages or more favorable cash discounts or rebates; transferring goods from a store where the market is stagnant to one that is active; and certain other general advantages in buying, selling, advertising, accounting, supervision and management;

WHEREAS, because of the very nature of chain organizations and the advantages peculiar to them, a single unit or store in the chain may sell merchandise at less than cost and let the other links in the chain absorb the loss; and

thereby force an independent merchant out of business so that virtually the entire business of a small community may be eventually taken over by the chain;

WHEREAS, chain stores or merchantile establishments do run price leaders at a price below cost or the real value of the merchandise in contravention of section 198 of the Constitution of this Commonwealth;

WHEREAS, the advantages and practices aforementioned among others tend strongly to create monopolies and restrain or limit trade;

WHEREAS, said advantages do and said practices may become more pronounced as the number of stores or mercantile establishments in the chain increases; and the profits per store and net income on sales and profits from the investment tend to increase as the number of stores or mercantile establishments in the chain increases, while the relationship of salaries and wages to the cost of goods sold decreases as the number of stores or mercantile establishments in a chain increases;

WHEREAS, the stability of the local communities is important to the welfare of the state, and small merchants are essential to that stability in that they necessarily maintain an intimate business relationship with local bankers, wholesalers, mechanics, artisans and farmers and take a greater interest in local charitable, religious, educational, cultural and civic affairs and thereby use their influences and resources for the purpose of creating a higher degree of loyalty to their community, state and institutions than can be expected of chain organizations or transients;

WHEREAS, it is deemed by the General Assembly to be in the public interest that the public policy of the state should be and is that chain store organizations should be permitted to continue their operation in this state only under regulations and conditions that will not permit them to destroy or unfairly impede the operation of the business of

independent merchants, and that this act is intended to offset in a measure the advantages and practices peculiar to the chain organization so as to make the advantages of merchandising of chain organizations of varying number of stores and independents more nearly equal in the interest of the general welfare, under the authority of the general police power, as well as to comply with the mandatory duties imposed upon the General Assembly by section 198 of the Constitution of this Commonwealth; and

WHEREAS, the considerations hereinabove set out are not intended to and do not specify or include all considerations in support of the public policy expressed and declared in this Act, it is hereby declared to be the legislative intent that said considerations shall not be construed as restrictive but as indicative only of some of the considerations on which the public policy of this state has been determined and declared; Now, Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Each person, firm, copartnership, corporation or association of persons engaged in the business of operating, or maintaining, as part of a group or chain, any store or stores or mercantile establishments in this Commonwealth, where goods, wares, meals, merchandise or commodities of any description whatsoever are sold or offered for sale at retail under the same general management, ownership or control, commonly known as branch or chain stores, shall be required to obtain for each such store or establishment an annual license for the calendar year beginning January 1, 1940, and for each subsequent year. Should two or more persons, firms, copartnerships, corporations or association of persons having a controlling interest, directly or indirectly in different stores, pool their buying or selling, each and every store so operated shall be treated as being a part of a

branch or chain of stores or mercantile establishments as contemplated in this Act.

§ 2. Every person, firm, copartnership, corporation or association of persons engaged in the business described in section 1 of this Act and doing business in this Commonwealth shall, on or before the second day of January of each year, render to the Department of Revenue of this Commonwealth a report signed and sworn to by the person or persons in interest, his or their duly authorized agent or officer, containing a true and complete statement showing the greatest number of stores or mercantile establishments wherever located operated or maintained at any one time in the preceding year; the name, location and street address of each such store or mercantile establishment operated or to be operated in this Commonwealth for the year in which license is applied for; and such other information as the Department of Revenue may require.

§ 3. The annual fee for the license required by this Act shall be determined on the number of stores or mercantile establishments included under the same general management, ownership or control, whether operated in this Commonwealth or not, and shall be fixed and graded as follows, to wit:

(1) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of not more than five stores, the annual license fee shall be twenty-five ($25.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(2) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than five stores, but not more than twenty-five stores, the annual license fee shall be fifty ($50.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(3) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than twenty-five stores but not more than fifty stores, the annual license fee shall be seventy-five ($75.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(4) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than fifty stores but not more than one hundred stores, the annual license fee shall be one hundred ($100.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(5) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than one hundred stores but not more than one hundred and fifty stores, the annual license fee shall be one hundred and twenty-five ($125.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(6) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than one hundred and fifty stores but not more than two hundred stores, the annual license fee shall be one hundred and fifty ($150.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(7) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than two hundred stores but not more than two hundred and fifty stores, the annual license fee shall be one hundred and seventy-five ($175.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(8) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or

group having a total of more than two hundred and fifty stores, the annual license fee shall be two hundred ($200.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

§ 4. The provisions of this Act shall not apply to filling, service or bulk stations maintained for the servicing of motor vehicles, if at least seventy per cent (70%) of the business done by such person, firm, copartnership, corporation or association of persons at his or its such filling, service or bulk station in this Commonwealth are sales of motor fuels and/or motor lubricants, unless it shall be finally determined that the exemption contained in this section is invalid in which case it is hereby declared to be the legislative intention that the provisions of this Act shall apply to filling, service or bulk stations operated or maintained as a part of a group or chain.

§ 5. Every person, firm, copartnership, corporation or association of persons beginning the operation of any store or mercantile establishment in this Commonwealth on any other date than January first of any year, shall first secure the license and pay the fee therefor in the manner herein provided, and the amount of the fee shall be based upon that proportion of the annual license fee that the number of months (for this purpose a part of a month shall be counted as a whole month) remaining between the date of the beginning of the operation and the following January first bears to twelve.

§ 6. Whenever any person has obtained the license for and paid the license fee due under this Act on any such stores or mercantile establishments and shall die, the Department of Revenue upon application may transfer the license to the personal representative or widow of the deceased for the remainder of the unexpired year for which the license was obtained without the payment of any additional license fee. Whenever a store or mercantile establishment for which the license has been secured and the fee paid as required under this Act is moved to another location in the same community

or local merchandising district thereof, the Department of Revenue may upon application transfer the license to the new location. The transfer shall be endorsed on the license as originally granted.

§ 7. The administration of this Act is vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the enforcement thereof. The Department of Revenue shall have power to institute legal proceedings, as now provided by law, for the purpose of enforcing the collection of any amount due under this act, with penalty thereon, and for the purpose of enjoining the operation of the business of any person, firm, copartnership, corporation or association of persons not complying with the provisions of this Act.

§ 8. Neither the license nor the fee therefor herein prescribed shall be in any way a waiver of any taxes or other licenses imposed by the laws of this Commonwealth.

§ 9. The fee for the license under this Act shall be paid on or before the second day of January of each year to the Department of Revenue of the Commonwealth of Kentucky at its office in Frankfort, Kentucky, and said Department is hereby charged with the duty of collecting said license fee, and if delinquent, such license fee shall bear interest at the rate of one-half of one per cent per month, and in addition a penalty equal to ten per cent of the principal shall be paid. If such amounts are collected by suit an additional amount equal to twenty per cent of the principal, interest and ten per cent penalty shall be assessed, collected and distributed as provided in chapter 21 of the Acts of the Fourth Extraordinary Session of the 1936 General Assembly, particularly section 4263 Carroll's Kentucky Statutes, 1936 Edition as amended thereby (now found as section 4263 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes).

The license required for the period beginning January 1, 1940 and expiring December 31, 1940 shall be secured and the

full year's fee therefor so paid before the end of the thirtieth day after this Act shall become effective.

A separate license shall be issued for each store or business establishment required under this Act to be licensed, and it shall be the duty of the person, firm, copartnership, corporation or association required to post the license or cause it to be posted in a conspicuous place in each store.

§ 10. All funds collected under the provisions of this Act shall be collected through the Department of Revenue and paid into the state treasury, and deposited in the general expenditure fund, except the twenty per cent penalty provided in section 9 hereof shall be distributed as now provided by law.

§ 11. Any person, the member of any firm, the officer or manager of any corporation or association, violating any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall be punished by a fine of not more than five hundred ($500.00) dollars nor less than fifty ($50.00) dollars, or by imprisonment of not more than ninety (90) days nor less than sixty (60) days in the county jail, or both such fine and imprisonment, at the discretion of the court.

§ 12. In the event any phrase, clause, or section of this Act is found to be unconstitutional for any reason, such unconstitutionality shall not have the effect of invalidating those other portions of this Act which may be found to be constitutional, but those other portions which are found to be constitutional shall continue to remain in full force and effect.

By Mr. Chapman.

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers, and penalties relating to the listing, assessment, and taxation of certain intangible property.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Notes and accounts receivable in the amount owned or possessed as of the date herein specified shall be listed, valued, and assessed as of the first day of January of each year, commencing January 1, 1940 for the tax year 1941-42, and the person owning or possessing the same on such day shall remain bound for the tax notwithstanding he may have sold or parted with it. However, the list of such accounts and notes shall be given to the assessing officer at the same time and in the same manner as all other intangible property which should be listed with the county tax commissioner in the first instance, and the assessment of, and the procedure for collecting the tax imposed upon such accounts and notes shall be the same as now or hereafter provided by law except as herein or hereafter provided.

§ 2. Any assessment of accounts receivable and notes which were listed with the county tax commissioner or the county board of supervisors shall be subject to being reopened by the Department of Revenue within three years and six months after the date as of which they were assessed, unless the assessed value thereof is the face value or has been established by a court of competent jurisdiction.

If upon reopening such assessment the Department of Revenue shall find that the assessment was less than the fair cash value and should be increased it shall give notice thereof to the taxpayer, who may within fifteen (15) days thereafter appear before the Kentucky Tax Commission in Frankfort and offer evidence to show that no increase should be made. The taxpayer may appeal from any such additional assessment as provided in sections 5 and 5a, Chapter 4, Acts of the First Extraordinary Session of the 1938 General Assembly.

Upon such assessment becoming final the Department of Revenue shall certify it to the appropriate county court clerk for the preparation of a tax bill therefor, which shall be prepared in the same manner and subject to the same conditions as in the case of omitted tax bills. Such tax bill shall be handled and collected as an omitted tax bill, and if issued on or after the date on which the tax would have become delinquent had the property been properly and timely assessed by the county tax commissioner and the county board of supervisors, it shall include interest at the rate of one-half of one per cent (½ of 1%) per month or fractional part thereof, computed from such date and shall become due and payable upon notice to the taxpayer thereof and shall be delinquent sixty (60) days from the date of such notice. Upon becoming delinquent the total amount of such tax bill shall bear interest at the rate of one-half of one per cent (½ of 1%) a month or fractional part thereof, and penalty of six per cent (6%) of the total amount of the bill shall be paid.

All such delinquent tax bills shall constitute liens on all property of the taxpayer in accordance with section 9, Chapter 21, Acts of the General Assembly of 1936, Fourth Extra-ordinary Session.

§ 3. Persons, associations of persons, corporations, or partnerships listing property with the county tax commissioner or the county board of supervisors for taxation shall reveal the face value of all intangibles listed (except stocks, cash or bank deposits) on the form prescribed by the Department of Revenue for listing intangible property. Failure to so reveal the face value shall constitute a misdemeanor and subject the person so failing to a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

A reduction of fifty cents (50c) shall be made from the county tax commissioner's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, save stocks, cash or bank deposits.

§ 4. Section 2 hereof is intended to apply retroactively to all assessments of accounts receivable and notes which may be constitutionally reopened.

§ 5. *Severability.*—If any provision, section, paragraph or phrase hereof, or if the application thereof to any person, circumstance, or condition shall be held invalid, such decision shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent that the remainder of this Act would have been passed by the General Assembly without the invalid section, paragraph or phrase, or that the General Assembly would have passed this Act without intending the application of it to such person, circumstance, or condition.

By Mr. Stacy.

H. B. 168. An Act proposing an amendment to the Constitution to be submitted to the electorate limiting the use to be made of the gasoline tax.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the concurrance of three-fifths of all members elected to each House of the General Assembly of the Commonwealth of Kentucky the ayes and nays being taken thereon and entered in full in their respective journals, that there be and is hereby proposed an amendment to the Constitution of the Commonwealth of Kentucky to read as follows:

"All taxes collected under the provisions of the so-called Gasoline Tax Law, or any other law imposing excise taxes on liquid fuels, shall be used only to defray the expense of the administration of such law imposing such taxes, and for the purpose of the construction, reconstruction, maintenance and repair of roads, highways and bridges."

§ 2. This amendment shall be published and submitted to the voters of the State for their ratification or rejection at the time and in the manner provided under Sections two hundred fifty-six and two hundred fifty-seven of the Constitution and Section one thousand four hundred fifty-nine of Baldwin's Revised Edition of Carroll's Kentucky Statutes.

By Mr. King.

H. B. 169. AN ACT to repeal, amend, and re-enact section 2739g-33 Kentucky Statutes, Baldwin's 1936 Edition, which is a portion of Chapter 90 of the Acts of 1920, as amended by Chapter 113 of the Acts of 1929, and providing a penalty therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 2739g-33, Kentucky Statutes, Baldwin's 1936 Edition, which is a portion of Chapter 90 of the Acts of 1920, as amended by Chapter 113 of the Acts of 1926, be repealed, amended, and re-enacted, so that when repealed, amended, and re-enacted, said section shall read as follows:

Section 2739g-33. (a) Chains; agricultural machinery.—In all cases where chains are used on rubber tired vehicles, the cross chains shall not be more than three-fourths of an inch in thickness or diameter, and shall be spaced not more than ten inches apart, around the circumference of the tires. No person shall willfully operate any vehicle on any public highway in such manner as to do injury thereto. Any machinery, utensils or implements used solely for agricultural, farming or manufacturing purposes may be operated on the highways under present equipment except as otherwise provided in subsection (c) of this section.

(b) Width of tires.—No person shall operate a vehicle

on a public highway which has greater weight on any tire per inch on width of same which is in contact with the surface of the highway than:

For iron or steel tires, 500 lbs.; for solid rubber or rubber compounded tires of more than 800 lbs.

(c) Tractors.—No tractor, traction engine, hauling engine or other similar power vehicle having any projections on the face of the tires or rims of the wheels in contact with the pavement shall be operated on any highway maintained by the State or any political subdivision thereof, or on any highway maintained by the State and any political subdivision thereof, or in part maintained by the Federal Government, except that the driving wheels may be fitted with flat lugs extending diagonally across the entire width of the tire or rim, such lugs to be not less than one-half inch in width at the bearing surface in contact with the pavement, provided, that such lugs are so spaced that not less than two lugs on each driving wheel shall be in contact with the road surface at all times. The front or non-driving wheels may be fitted with flat steering rings provided that such rings are at least two inches in width and not more than one and one-half inches in height, but no bolt head or rivet heads or other projections beyond the face of the tire or rim will be permitted. The narrow angle iron lugs used for plowing or on soft ground will not be permitted and no tractor or other vehicles of the caterpillar or track laying type having any such projections on the faces of the shoes or treads of the track in contact with the roadway will be permitted unless fitted with the flat lugs hereinbefore specified and in a way that will prevent any injury to the highway by either the narrow angle lugs or the projections on any tractor of other vehicle hereinbefore named.

Immediately after the passage and effective date of this Act, the penalty provided under section 2739g-65, Kentucky Statutes, shall attach to and become a provision of this Act and the penalty therein provided shall be imposed for the violation of any portion of this Act.

By Mr. Anderson.

H. B. 170. An Act to amend Chapter 12 of the Acts of the First Extraordinary Session of the General Assembly of 1938, entitled An Act to provide approved high school service for all pupils.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That in order to clarify the law and avoid misunderstanding and possible litigation, Chapter 12 of the Acts of the First Extraordinary Session of the General Assembly of 1938 be amended by striking out of its last sentence the word *maintenance* and inserting in lieu thereof the words *board and room,* so that when amended it shall read as follows:

"It shall be the duty of the board of education of each county to provide approved high school service within the county for all children of high school grade residing in the county district, either by maintaining the school or by contract with an independent district within the county, and the duty of each independent district board of education to provide such service within its district, or by contract with a city or other independent district within the county, for all children of high school grade residing within such district; provided that if the number of such pupils of either race is not sufficient in any county or independent district to maintain a high school, the board shall provide it by transporting them daily to an approved high school in another county or district, or in lieu of transportation shall provide for their board and room within reasonable walking distance of such school if it is found more feasible or more economical to do so, said board and room in no case to cost more than one hundred dollars ($100.00) per year for any pupil."

By Mr. Thomas.

H. Res. 21. RESOLUTION authorizing Eula Morgan to file suit against the Commonwealth of Kentucky and the State Highway Commission or either.

Said resolution is as follows, viz.:

WHEREAS, a truck driver of the State Highway Commission, allegedly through his negligence, ran his truck into, upon and against Eula Morgan in Casey County, Kentucky, on the 28th day of April, 1938, and inflicted severe personal injuries upon her body;

NOW, in order that she may determine her rights by judicial action and that the question of negligence, if any, causing such injuries may be determined by judicial action.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Eula Morgan be and she is here empowered and authorized to file suit against the Commonwealth of Kentucky and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission or either, for such injuries and damage if there be any arising from the running of said truck into, upon and against Eula Morgan; and in the event any judgment in either action is recovered by said Eula Morgan, or the same is compromised and settled, the judgment or amount agreed upon in compromise, if any, shall be paid out of the general fund and the Auditor of Public Accounts is hereby authorized to issue a warrant against the State Treasurer for said judgment or amount, if any.

§ 2. Said action may be brought in any county having jurisdiction of the party and subject matter, provided that any such action shall be instituted within one year from the date this resolution becomes effective.

§ 3. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

§ 4. The limit of recovery for personal injuries to said Eula Morgan shall be ten thousand ($10,000.00) dollars.

By Mr. Beard.

H. Res. 22. RESOLUTION authorizing E. M. Addington, of Island, McLean County, Kentucky, to sue the Commonwealth of Kentucky, and the Department of Highways of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, The Department of Highways of the Commonwealth of Kentucky constructed a public highway, not numbered, which begins in the town of Island, at State Highway No. 75, and running thence East to Green River, known as Island and Point Plesant highway, in McLean County, Kentucky, which work was begun in August, 1938, and completed during said year, and

WHEREAS, said grade and drain of said road was constructed by Corum Brothers, of Madisonville, Kentucky, contractors employed by the Department of Highways of the Commonwealth of Kentucky, and

WHEREAS, said contractors acting pursuant to and under contract with the Department of Highways of the Commonwealth of Kentucky, in graduing and draining said highway, made a cut eight (8) feet in depth immediately in front of the lot and residence of E. M. Addington, said lot and residence being situated at Island, Kentucky, and in which residence the said E. M. Addington then resided and now resides, and said cut being in front of the residence of the said

E. M. Addington, without making any approach or leaving the said Addington any means or way of getting into or out of his property, and

WHEREAS, said grade and drain was so negligently and carelessly constructed and maintained as to leave the said Addington's property without means of ingress or egress, said road having been constructed over a Street known as the Hartford and Sacramento public road, which street was the outlet of the property of the said Addington, and leaving said Addington no other means or method of ingress or egress, destroying the value of his property as a dwelling place, and

WHEREAS, by reason of said negligent construction and maintenance the lot and dwelling on the south side of said road and adjacent to it were greatly damaged and injured, said road having been constructed twenty (20) inches from the property line of said Addington, thereby leaving the said Addington without any means of ingress and egress, and destroying his outlet, leaving him no ingress or egress to his property, and

WHEREAS, said lot is eighty (80) feet in width and one hundred and eighty-five (185) feet in depth, and has been greatly damaged by the negligent construction and maintenance of said road, and

WHEREAS, the said E. M. Addington alleges and claims that said damage and injury to his lot and property was caused entirely by the negligence and carelessness of the Department of Highways of the Commonwealth of Kentucky, its agents and employees, in the construction and maintenance of said road, and

WHEREAS, if the said injury and damage to said lot or property was caused by the negligence and carelessness of the said Department of Highways of the Commonwealth of Kentucky, its agents and employees, the said E. M. Addington should be compensated for the damages to his property: therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That E. M. Addington, of Island, McLean County, Kentucky, be and he is authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways of the Commonwealth of Kentucky, in the McLean County Circuit Court, for such damages as he may have sustained, if any, by reason of any injury or damage to his lot and lands through the carelessness or negligence of the Department of Highways of the Commonwealth of Kentucky, its agents or employees, or contractors, and in the event any judgment is recovered by the said E. M. Addington, in said suit for damage to his lot and lands, the same shall be paid by the Department of Finance by warrant on the Treasurer.

§ 2. Either party to said suit may appeal from any judgment which may be rendered in the McLean County Circuit Court to the Court of Appeals of Kentucky, and the case may be settled and adjusted with the consent of the Attorney General of Kentucky in the same way as any other civil case.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills previously introduced, as follows, viz.:

H. B. 121. To Committee on Kentucky Statutes No. 1.

H. B. 158. To Committee on Kentucky Statutes No. 1.

H. B. 159. To Committee on Kentucky Statutes No. 1.

H. B. 160. To Committee on Kentucky Statutes No. 1.

H. B. 161. To Committee on Kentucky Statutes No. 1.

H. B. 162. To Committee on Kentucky Statutes No. 1.

H. B. 166. To Committee on Revenue and Taxation No. 1.

H. B. 167. To Committee on Revenue and Taxation No. 1.

A message was received from the Senate announcing that they had adopted a resolution which originated in that body entitled:

S. Res. 10. Resolution recommending and endorsing the appointment of H. Stanley Blake of Carlisle, Kentucky to a vacancy in the position of Chief of Tobacco Section of the Agricultural Adjustment Administration of the U. S. Government.

Mr. Joe E. Robinson sent to the Clerk's desk a study prepared for the use of the 1940 General Assembly upon request of the Kentucky Legislative Council, of Chain Store regulations.

Ordered that said study of Chain Store Regulations be filed in the Clerk's office.

Mr. Joe E. Robinson moved that the House do now recess for ten minutes.

Said motion was agreed to.

And then the House recessed.

At the expiration of ten minutes, the Speaker resumed the Chair and called the House to order.

Mr. Joe E. Robinson moved that the Rules of this House be suspended for the purpose of permitting Committee to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 121. An Act to repeal, amend and re-enact Chapter 16 of the Acts of the General Assembly of the Commonwealth of Kentucky in Extraordinary Session which was begun in the city of Frankfort, Kentucky on Monday, March 30, and ended on Saturday, May 9, 1936 now codified as Section 4238 Carroll's Kentucky Statutes, etc.

H. B. 158. An Act to amend Sec. 1234 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

H. B. 159. An Act to amend Chapter 94 of the Acts of 1936 and Chapter 56, 57, and 58 of the Acts of 1938 relating to Old Age Assistance.

H. B. 160. An Act to repeal, amend and re-enact Sec. 263b-16 of Carroll's Kentucky Statutes, 1938 Revision, being Section 16 of Chapter 1 of the Acts, passed by the General Assembly at the Second Extraordinary Session of 1938 and providing for the admission of persons to hospitals and institutions;

H. B. 161. An Act to prohibit the taking, enticing, assisting to escape or the encouraging to escape lawfully

committed inmates from the State Hospitals for the Insane, etc.

H. B. 162. An Act providing for the transfer of feeble-minded and/or insane prisoners to State Hospitals and/or Feeble-minded Institutes.

By Mr. Joe E. Robinson of the Committee on Revenue and Taxation No. 1.

H. B. 166. An Act relating to chain stores or multiple mercantile establishments and imposing a license fee on such businesses, etc.

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers, and penalties relating to the listing, assessment, and taxation of certain intangible property.

By Mr. McConnell of the Committee on Compensation for Industrial Injuries.

H. B. 31. An Act entitled An Act authorizing cities of the second, third, fourth, fifth and sixth clases to provide public liability insurance for the police and fire departments and the members thereof;

By Mr. Bosworth of the Committee on Codes of Practice.

H. B. 37. An Act to repeal Sec. 574 and to amend subsec. 1 of Sec. 575 of the Civil Code of Practice.

H. B. 38. An Act to amend subsec. 1 of sec. 606 of the Civil Code of Practice, Carroll's 1938 Edition.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Hunnicutt moved that the House do now take up for consideration a resolution which originated in the Senate and was previously reported to this House.

Said motion was agreed to.

Thereupon the House took up for consideration a resolution entitled:

S. Res. 10. (For title see Journal of today ante)

Said resolution is as follows, viz.:

WHEREAS, a vacancy exists in the position of Chief of Tobacco Section of the Agricultural Adjustment Administration of the United States Government caused by the recent death of the Honorable William Collins of Bourbon county, Kentucky, and

WHEREAS, H. Stanley Blake of Carlisle, Kentucky has had twenty-three years of valuable experience in the tobacco industry as a grower, warehouseman and tobacco buyer, and

WHEREAS, the said H. Stanley Blake, coming from the heart of the Burley Tobacco Center of the United States, and being experienced in growing tobacco, warehousing, and buying tobacco, in Kentucky, North Carolina, and Georgia, would make a most desirable man for said position, and

WHEREAS, the General Assembly desires to take all steps possible to secure the appointment of the said H. Stanley Blake to said position; now therefore

Be It Resolved by the General Assembly of the Commonwealth of Kentucky:

That the General Assembly of the Commonwealth of Kentucky does recommend and endorse the appointment of H. Stanley Blake of Carlisle, Kentucky, to the vacancy in the office of Chief of Tobacco Section of the Agricultural Adjustment Administration of the United States Government, caused by the recent death of the Honorable William Collins of Bourbon county, Kentucky; and requests that the Honorable Henry Wallace, Secretary of Agriculture of the United States, give solemn consideration to the high qualifications of the said H. Stanley Blake for said position.

That the Clerk of the Senate is directed to forward copies of this resolution to the Honorable Henry Wallace, Secretary of Agriculture of the United States; to the Hon. Alben W. Barkley, United States Senator from Kentucky; to the Hon. Albert B. Chandler, United States Senator from Kentucky; to N. J. Gregory, B. M. Vincent, Emmitt O'Neal, E. W. Creal, Brent Spence, Virgil H. Chapman, A. J. May, Joe Bates and John M. Robsion, United States Congressmen from Kentucky.

Said resolution was then concurred in.

Mr. Joe E. Robinson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, JANUARY 18, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend John T. Galloway of the Northern Presbyterian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
J. Everett Bach
H. T. Baker
Wm. T. Beard
Alvis S. Bennett
Rell Bevins
Sterling B. Blake
Douglas T. Bolling
J. F. Bosworth
W. S. Brim
C. J. Bronston
Gus A. Brooks
Randolph A. Brown
Haynes Carman
Charles M. Carter
James W. Chapman
S. B. Chrisman
John Coulter
John H. Cox
Pink G. Curd
F. E. Daugherty
Stanley S. Dickson
Forest C. Easley
D. E. Edwards
Harry W. Ennis
R. R. Ernst
Carlos Fallis
T. P. Fitzpatrick
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
John M. Hunnicutt
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
John S. Juett
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Harvey D. Leonard
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
Stanley C. Moebus
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
H. O. Porter
Kleber F. Price
Hobart Rayburn
Thomas Rigdon
W. H. Riley
Joe E. Robinson
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Ray O. Shehan
Faust Y. Simpson
Bruce Sloan
Otto Smither
E. T. Sparks
G. C. Springate
J. Claude Stacy
Ray J. Stengel
Henry Stewart
W. St. Clair Stuart
T. M. Swope
Otis C. Thomas
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
S. J. Wagner
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods

—94

Mr. Shaikun moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

The following bills and resolution were introduced, viz.:

By Mr. Waterfield.

H. B. 171. AN ACT to provide for the sharing of primary and general election expenses on a proportionate basis by the Commonwealth, cities, counties and boards of education, and providing for the repeal of conflicting laws.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The expenses incident to the holding of either a primary or a general election (such expenses to include the cost of delivering ballot boxes, booths, and office supplies to the polling places, the cost of office supplies, general plant equipment, advertising, printing, the rent of polling places and the salaries of election commissioners and tabulators, but not including the salaries of election officials stationed at the polling places, which expenses shall continue to be borne by the county in the manner now provided by law) shall be divided and borne proportionately by the Commonwealth, cities, counties and boards of education, as follows:

The county election commission shall count the number of state offices (which shall include Presidential electors and United States Senators and Representatives) the number of municipal offices, the number of county offices and number of school district offices to be voted on by the electors of each precinct in said county. The percentage of such State, city, county and school district offices to be filled

in each precinct shall then be determined for such precinct. When all of such individual percentages have been determined, as aforesaid, such percentages shall be averaged for all precincts in the county. The final averaged percentages of state, municipal, county and school district offices thus determined shall be the proportion of the total election expenses in the county which are to be borne respectively by said governmental agencies.

§ 2. When the county election commission has thus determined the final percentages of costs to be borne by each of the aforesaid governmental agencies, said commission shall thereupon certify to the fiscal court clerk of the county the figures thus prepared. Said clerk shall thereupon bill the Commonwealth, city and board of education for their respective percentages of the total cost of holding the election in said county. It shall be the duty of each of said governmental agencies, after each has had a reasonable opportunity to examine the records of the fiscal court pertaining to the expenses of the election (but not in excess of thirty days from the date of the billing), to pay to the county the amount due from said Commonwealth, city or board of education on account of the holding of said election.

§ 3. All acts or parts thereof in conflict with the provisions of this act are, to the extent of such conflict, hereby repealed.

By Mr. Ward.

H. B. 172. AN ACT approving, ratifying and enacting into law the Ohio River Valley Water Sanitation Compact for the prevention, abatement and control of pollution of the rivers, streams and waters in the Ohio River drainage basin and making the Commonwealth of Kentucky a party thereto; creating the Ohio River Valley Water Sanitation Commission; providing for the members of such Commission from

the Commonwealth of Kentucky; and providing for the carrying out of said Compact.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The following Ohio River Valley Water Sanitation Compact, which has been negotiated by representatives of the States of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia, is hereby approved, ratified, adopted, enacted into law, and entered into by the Commonwealth of Kentucky as a party thereto and signatory state, namely:

OHIO RIVER VALLEY WATER SANITATION COMPACT

Between the States of
Illinois, Indiana, Kentucky, New York,
Ohio, Pennsylvania, Tennessee and West Virginia

Pursuant to authority granted by an Act of the 74th Congress of the United States Public Resolution 104, approved June 8, 1936, conferences of delegates appointed to draft the compact were held at Cincinnati, Ohio, on November 20, 1936; Jan. 17, 1933; May 24, 1938; June 13, 1938; October 11, 1938.

WHEREAS, A substantial part of the territory of each of the signatory states is situated within the drainage basin of the Ohio River; and

WHEREAS, The rapid increase in the population of the various metropolitan areas situated within the Ohio drainage basin, and the growth in industrial activity within that

area, have resulted in recent years in an increasingly serious pollution of the waters and streams within the said drainage basin, constituting a grave menace to the health, welfare and recreational facilities of the people living in such basin, and occasioning great economic loss; and

WHEREAS, The control of future pollution and the abatement of existing pollution in the waters of said basin are of prime importance to the people thereof, and can best be accomplished through the cooperation of the States situated therein, by and through a joint or common agency;

NOW, Therefore, The States of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia do hereby covenant and agree as follows:

ARTICLE I

Each of the signatory States pledge to each of the other signatory States faithful cooperation in the control of future pollution in and abatement of existing pollution from the rivers, streams and waters in the Ohio River basin which flow through, into or border upon any of such signatory States, and in order to effect such object, agrees to enact any necessary legislation to enable each such State to place and maintain the waters of said basin in a satisfactory sanitary condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits, and adaptable to such other uses as may be legitimate.

ARTICLE II

The signatory States hereby create a district to be known as the "Ohio River Valley Water Sanitation District," hereinafter called the District, which shall embrace all territory

within the signatory States, the water in which flows ultimately into the Ohio River, or its tributaries.

ARTICLE III

The signatory States hereby create the "Ohio River Valley Water Sanitation Commission," hereinafter called the Commission, which shall be a body corporate, with the powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the signatory States or by act or acts of the Congress of the United States.

ARTICLE IV

The Commission shall consist of three commissioners from each State, each of whom shall be a citizen of the State from which he is appointed, and three commissioners representing the United States Government. The commissioners from each State shall be chosen in the manner and for the terms provided by the laws of the States from which they shall be appointed, and any commissioner may be removed or suspended from office as provided by the law of the State from which he shall be appointed. The commissioners representing the United States shall be appointed by the President of the United States, or in such other manner as may be provided by Congress. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred in and incident to the performance of their duties; but nothing herein shall prevent the appointment of an officer or employee of any State or of the United States Government.

ARTICLE V

The Commission shall elect from its number a chairman and vice-chairman, and shall appoint, and at its pleasure remove or discharge, such officers and legal, clerical, expert and other assistants as may be required to carry the pro-

visions of this compact into effect, and shall fix and determine their duties, qualifications and compensation. It shall adopt a seal and suitable by-laws, and shall adopt and promulgate rules and regulations for its management and control. It may establish and maintain one or more offices within the District for the transaction of its business, and may meet at any time or place. One or more commissioners from a majority of the member States shall constitute a quorum for the transaction of business.

The Commission shall submit to the Governor of each State, at such time as he may request, a budget of its estimated expenditures for such period as may be required by the laws of such State for presentation to the legislature thereof.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time to the inspection of such representatives of the respective signatory States as may be duly constituted for that purpose.

On or before the first day of December of each year, the Commission shall submit to the respective governors of the signatory States a full and complete report of its activities for the preceding year.

The Commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the Commission pledge the credit of any of the signatory States, except by and with the authority of the legislature thereof.

ARTICLE VI

It is recognized by the signatory States that no single standard for the treatment of sewage or industrial wastes is applicable in all parts of the District due to such variable factors as size, flow, location, character, self-purification, and usage of waters within the District. The guiding principle of this compact shall be that pollution by sewage

or industrial wastes originating within a signatory State shall not injuriously affect the various uses of the interstate waters as hereinbefore defined.

All sewage from municipalities or other political subdivisions, public or private institutions, or corporations, discharged or permitted to flow into these portions of the Ohio River and its tributary waters which form boundaries between, or are contiguous to, two or more signatory States, or which flow from one signatory State into another signatory State, shall be so treated, within a time reasonable for the construction of the necessary works, as to provide for substantially complete removal of settleable solids, and the removal of not less than forty-five per cent (45%) of the total suspended solids; provided that in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in Article I, in specific instances such higher degree of treatment shall be used as may be determined to be necessary by the Commission after investigation, due notice and hearing.

All industrial wastes discharged or permitted to flow into the aforesaid waters shall be modified or treated, within a time reasonable for the construction of the necessary works, in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in Article I, to such degree as may be determined to be necessary by the Commission after investigation, due notice and hearing.

All sewage or industrial wastes discharged or permitted to flow into tributaries of the aforesaid waters situated wholly within one State shall be treated to that extent, if any, which may be necessary to maintain such waters in a sanitary and satisfactory condition at least equal to the condition of the waters of the interstate stream immediately above the confluence.

The Commission is hereby authorized to adopt, prescribe and promulgate rules, regulations and standards for administering and enforcing the provisions of this article.

ARTICLE VII

Nothing in this compact shall be construed to limit the powers of any signatory State, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory State, imposing additional conditions and restrictions to further lessen or prevent the pollution of waters within its jurisdiction.

ARTICLE VIII

The Commission shall conduct a survey of the territory included within the District, shall study the pollution problems of the District, and shall make a comprehensive report for the prevention or reduction of stream pollution therein. In preparing such report, the Commission shall confer with any national or regional planning body which may be established, and any department of the Federal Government authorized to deal with matters relating to the pollution problems of the District. The Commission shall draft and recommend to the governors of the various signatory States uniform legislation dealing with the pollution of rivers, streams and waters and other pollution problems within the District. The Commission shall consult with and advise the various States, communities, municipalities, corporations, persons, or other entities with regard to particular problems connected with the pollution of waters, particularly with regard to the construction of plants for the disposal of sewage, industrial and other waste. The Commission shall, more than one month prior to any regular meeting of the legislature of any State which is a party thereto, present to the governor of the State its recommendations relating to enactments to be made by any legislature in furthering the intents and purposes of this compact.

ARTICLE IX

The Commission may from time to time, after investigation and after a hearing, issue an order or orders upon any

municipality, corporation, person, or other entity discharging sewage or industrial waste into the Ohio River or any other river, stream or water, any part of which constitutes any part of the boundary line between any two or more of the signatory States or into any stream any part of which flows from any portion of one signatory State through any portion of another signatory State. Any such order or orders may prescribe the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of. The Commission shall give reasonable notice of the time and place of the hearing to the municipality, corporation or other entity against which such order is proposed. No such order shall go into effect unless and until it receives the assent of at least a majority of the commissioners from each of not less than a majority of the signatory states; and no such order upon a municipality, corporation, person or entity in any State shall go into effect unless and until it receives the assent of not less than a majority of the commissioners from such State.

It shall be the duty of the municipality, corporation, person or other entity to comply with any such order issued against it or him by the Commission, and any court of general jurisdiction or any United States district court in any of the signatory States shall have the jurisdiction, by mandamus, injunction, specific performance or other form of remedy, to enforce any such order against any municipality, corporation or other entity domiciled or located within such State or whose discharge of the waste takes place within or adjoining such State, or against any employe, department or subdivision of such municipality, corporation, person or other entity; provided, however, such court may review the order and affirm, reverse or modify the same upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The Commission or, at its request, the Attorney General or other law enforcing official, shall have

power to institute in such court any action for the enforcement of such order.

ARTICLE X

The signatory States agree to appropriate for the salaries, office and other administrative expenses, their proper proportion of the annual budget as determined by the Commission and approved by the Governors of the signatory States, one-half of such amount to be prorated among the several States in proportion to their population within the District at the last preceding federal census, the other half to be prorated in proportion to their land area within the District.

ARTICLE XI

This compact shall become effective upon ratification by the legislatures of a majority of the States of the States located within the District and upon approval by the Congress of the United States; and shall become effective as to any additional States signing thereafter at the time of such signing.

§ 2. In pursuance of Article IV of said Compact, there shall be three members (hereinafter called commissioners) of the Ohio River Valley Water Sanitation Commission (hereinafter called Commission) from the Commonwealth of Kentucky. The Governor, shall appoint two persons as two of such commissioners, each of which shall be a resident and citizen of the State of Kentucky. The terms of one of the said two commissioners first appointed shall be two years and of the other shall be four years; and their successors shall be appointed by the Governor, for terms of four years each. Each commissioner shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of any such commissioner from any reason or cause shall be filled by appointment by the Governor, for the unexpired term. The third commissioner from the Commonwealth of Kentucky shall be the State Commissioner of Health ex officio, and the

term of any such ex officio commissioner shall termniate at the time he ceases to hold said office of State Commissioner of Health, and his successors as a commissioner shall be his successors as said State Commissioner of Health. With the exception of the issuance of any order under the provisions of Article IX of the Compact, said ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his department or office the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the Commission. The terms of each of the initial three members shall begin at the date of the appointment of the two appointive commissioners, provided the said Compact shall then have gone into effect in accordance with Article XI of the Compact; otherwise shall begin upon the date upon which said Compact shall become effective in accordance with said Article XI.

Any commissioner may be removed from Office by the Governor upon charges and after a hearing, but opportunity to be heard shall be given.

§ 3. There is hereby granted to the Commission and the commissioners thereof all the powers provided for in the said Compact and all the powers necessary or incidental to the carrying out of said Compact in every particular. All officers of the Commonwealth of Kentucky are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary to or incidental to the carrying out of said Compact in every particular; it being hereby declared to be the policy of the Commonwealth of Kentucky to perform and carry out the said Compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government or administration of the Commonwealth of Kentucky are hereby authorized and directed at convenient times and upon request of the said Commission to furnish the said Commission with

information and data possessed by them or any of them and to aid said Commission by loan of personnel or other means lying within their legal powers respectively.

The courts of general jurisdiction of the Commonwealth of Kentucky are hereby granted the jurisdiction specified in Article IX of said Compact, and the office of the Attorney General or any other law enforcing officer of the Commonwealth of Kentucky is hereby granted the power to institute any action for the enforcement of the orders of the Commission as specified in said Article IX of the Compact.

§ 4. Any powers herein granted to the Commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said Commission by other laws of the Commonwealth of Kentucky or by the laws of the States of Illinois, Indiana, New York, Ohio, Pennsylvania, Tennessee and West Virginia or by Congress or the terms of said Compact.

§ 6. This act will become effective as a law from and after its passage and approval by the Governor and after the Ohio River Valley Water Sanitation Compact has been ratified by the states of Illinois, Indiana, Ohio, Pennsylvania, Tennessee and West Virginia.

By Mr. Moebus.

H. B. 173. AN ACT relating to the construction, extension, or improvement of sewers, disposal plants, and other necessary appurtenances to sewer systems, or parts thereof, in cities and towns of all classes, by contract with, or in cooperation with, the Works Projects Administration or other agencies of the United States Government or of the State of Kentucky, and providing for the assessment of the abutting property owners to raise money for that purpose and granting a lien against the property of said abutting property owners to secure the payment of said assessment in ten equal in-

stallments over a period of ten years, and the sale and issue of bonds by the city or town, and providing for the enforcement of said lien and the collection of said assessment and said installments.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That this act provides an alternative method for the construction, extension, or improvement of sewers, disposal plants, and other necessary appurtenances to sewer systems, and does not conflict with or repeal any part of any act now in force providing for the construction, extension, or improvement of sewers, disposal plants, or other necessary appurtenances to sewer systems, or parts thereof.

§ 2. The legislative body of any city or town of Kentucky may by ordinance provide for the construction, extension, or improvement of sewers, disposal plants, or other necessary appurtenances to sewer systems, or parts thereof, in cooperation with the Works Projects Administration of the United States Government or any other agency of the Federal or State Government. The improvement of any sewer, disposal plant, or appurtenance to a sewer system shall be deemed an improvement within the provisions of this act.

The improvement of such sewers, diposal plants, or other necessary appurtenances to sewer systems contemplated by this act may be made by the Works Projects Administration or other agency of the Federal or State Government and at the exclusive cost of the owners of real estate abutting on such improvement to be apportioned among and assessed upon the lots or parcels of real estate abutting on such improvement according to the number of front or abutting feet and a tax shall be levied upon such lots or parcels of real estate for the payment of the cost assessed thereon which cost shall be the difference between the total cost of completing said improvement and the total amount of the contribution of the Works

Projects Administration or other agency of the Federal or State Government engaged in making said improvement, which tax shall be due and payable at the office of the City Treasurer when said improvement shall have been completed which time shall be determined by the legislative body of said city or town, with the advice of the City Engineer. Upon petition of more than fifty percent of the property owners affected by said improvement, the legislative body of any city or town in Kentucky may, by ordinance, duly adopted and enacted by a majority vote of its members at a regular meeting of said legislative body, cause any such improvement to be made and the assessments against the property owners paid upon the ten year bond plan as hereinafter provided.

§ 3. Whenever any work done hereunder upon the ten year bond plan has been completed and accepted and the property owner whose property has been assessed does not pay the total of this assessment to the City Treasurer when said improvement shall have been accepted, the legislative body of the city or town shall issue the bonds of the city in sums not to exceed the cost of said improvement and all expenses in connection therewith including the expenses of the issuance and sale of said bonds, and shall sell the same to the highest and best bidder after due advertisement, at a price not less than par and accrued interest. Said bonds shall be divided into ten series, each series to be nearly equal as possible. Said series to be paid respectively in one, two, three, four, five, six, seven, eight, nine, and ten years after date. Said bonds shall be of a denomination of One Hundred ($100.00) Dollars or multiple thereof not exceeding Five Hundred ($500.00) Dollars and shall bear interest at a rate not to exceed 6% per annum, and shall be payable at a Kentucky bank to be designated by the legislative body of the city or town, and the holders of said bond shall be given a first and superior lien which lien shall be superior to any and all liens except for state, county, school, or city taxes on the

property, lots, or parcels of real estate so assessed for said improvement to fully secure the payment of said bonds and any and all accrued interest thereon and the cost of collection, if any.

§ 4. All moneys arising from the sale of bonds provided for herein shall be kept by the City Treasurer in a separate fund to be known as the sewer fund, and the Treasurer shall pay out of the said fund all orders which the legislative body shall direct paid for any sewer improvement provided for herein, and shall keep all money accruing or arising under the provisions hereof in the same manner and subject to all the regulations regarding other money of the city, except that he shall keep a separate account of the same and credit all interest arising therefrom to said sewer fund, and said City Treasurer shall be responsible under his official bond as City Treasurer for all the money accruing or received by him hereunder, and for the faithful performance of the duties herein requred of him.

§ 5. The assessment against the property owners for improvements mentioned and set out in the preceding section of this act, shall be made as soon as the improvement is fully completed and accepted, and the sum assessed against each lot, or parcel of lots, or piece of property, and also the names of owners thereof who do not pay the whole or their assessment in cash at the time of the assessment shall be placed upon the tax list of the city and shall be payable to the City Treasurer in ten equal annual installments with interest at the same rate per annum which said bonds bear upon the unpaid portion thereof. The first installment with interest on the whole amount at the rate per centum shall be payable at the time of the first payment of the city taxes succeeding the time such assessment is placed upon the tax list becomes due and the remaining unpaid installments annually thereafter and always at the time of the payment of other city taxes with interest at said rate on the installments not due at the

time until all unpaid installments shall have been paid. The assessments may be collected like other city or town taxes, or the city or town may at any time, after any installment remains delinquent for thirty days, by suit in equity enforce the lien for all unpaid installments both those so delinquent and the remaining unpaid installments assessed against the delinquent property with interest at said rate thereon to the date of satisfaction thereof, and in any such action an allegation in substance that the improvement has been made and the work accepted pursuant to and by ordinance of the legislative body of the city or town duly passed in accordance with law, shall be a sufficient pleading of the ordinance and procedings under which the work was done and accepted without setting out same in full. In default of payment of any such installment or tax or interest for thirty days after same becomes due as herein stated, a penalty of ten per centum of the installment so in arrears shall be added and it shall constitute a like lien as a tax and all unpaid installments of the tax assessed against such property so in default shall at the option of the city or town or any bondholder whose bond or bonds or interest thereon are in default, forthwith become due and payable. Any such action shall be prosecuted in the name of the city or town for the benefit of any and all bondholders whose bonds or interest thereon are in default and in any such action such lien shall be enforced for the payment of all unpaid installments assessed against such property with all interest thereon and for such added penalty and the cost of the action.

§ 6. The assessments herein provided under the provisions hereof together with the interest accruing thereon shall be and constitute a lien upon the property fronting or abutting or bordering upon the sewers or improvement from the date of the passage of the ordinance authorizing the improvement made, and shall remain a lien until fully paid off including interest and cost, having precedence over all other liens except for state, county, school, and city taxes and said

liens shall not be defeated or postponed by any judicial sale or by any mistake in the description of the property or in the name or names of the owners thereof.

§ 7. The owner or owners of lots or parts of lots or land now, or may at any time after the assessment for a sewer improvement is made hereunder, may pay off in full the whole amount up to and including the next ensuing date provided for the payment of city or town taxes, and the lien herein established shall be satisfied by such payment. If any owner or owners of property shall divide his property so that the number of feet fronting the improvement is separated in small lots or tracts, the lien may be discharged in like manner upon any one or more of the separate lots or tracts by the payment of the amount thereon or the lien may be apportioned to the new owners by the City Clerk, calculated by the rate of the foot front of such lot, lots or parcels of lots to the front of the original tract.

§ 8. All money received from the assessment herein provided for shall be apportioned upon the order of the legislative body of the city or town, or upon the order of the City Treasurer, to the payment of the interest and to the redemption of the bonds which may be issued for the improvements herein provided for. No property shall be exempt from such improvement tax. There shall be a lien upon such lots or parcels of real estate for the portion of the cost of such improvement so assessed against them and said assessment shall bear interest at said rate per annum from the time that it becomes due under the provisions of this act until it is paid. Said lien to secure the payment of said assessment shall be superior to all others except the lien for state, county, school, and city taxes.

§ 9. Any assessment for any such improvement, as provided for in this act, which exceeds one-half of the value of the lots or parcels of real estate upon which the assessment is made, shall be void as to such excess, but the improvements

shall be taken into consideration in fixing the value of such real estate and the legislative body of the city or town shall provide for the payment of any such excess out of the general fund.

§ 10. If any property abutting on the improvement provided for herein be owned by any county, said property shall be subject to the assessment for the improvement therein provided for the same as any other property, and said county shall pay in cash such portion of the tax as may be assessed against it, and the lien herein provided for to secure the payment of said assessment and tax shall apply to and attach to the said property or properties owned by any county, and the same right of action for the collection of such tax shall lie against the county, as is provided against any abutting owner.

§ 11. All funds paid to the City Treasurer assessed under the provisions of this act for the improvement of any sewer, disposal plant, or any appurtenance to a sewer system, shall be kept in a separate account by said Treasurer and used only for the purposes for which they were assessed, and said Treasurer shall keep a book which shows accurately the amount of said assessment, the name of the owner of the property against which the assessment has been made and the payment and the dates thereof.

§ 12. Before the legislative body of the city or town shall order the construction, extension, or improvement of any sewer, disposal plant or appurtenance to a sewer system, or any part thereof, under the provisions of this act, it shall adopt a resolution designating the sewer, disposal plant, appurtenance to a sewer system, or part thereof, proposed to be constructed, extended or improved, setting out in general terms the character and extent of the proposed improvement, and declaring such improvement to be a public necessity. Such resolution shall be published in at least one issue of a newspaper of general circulation, published in such city at

least seven days before the ordinance ordering such improvement shall have its final passage. At any time prior to the final passage of said ordinance ordering said improvement, the owners of more than 50% of the abutting property may file a written protest against the improvement. Such protest shall be filed with the mayor and he shall transmit the same for the legislative body of the city or town at its next meeting. Should a written protest be filed against said improvement, as above provided, the improvement shall not be made unless the ordinance therefor be passed by a two-thirds vote of the members elect of the legislative body of the city or town.

§ 13. It is not the intent of this act to repeal any existing act, but this act shall constitute an alternate method of providing for sewer construction, extension, and improvement.

§ 14. Whereas, many of the cities and towns of Kentucky, to which this act is applicable are now without adequate sewers, disposal plants, and other necessary appurtenances to sewer systems, thus endangering the health and convenience of the inhabitants thereof, and whereas, the Works Projects Administration is offering to extend its facilities to aid in the construction of such sewers, disposal plants, and other necessary appurtenances to sewer systems, it is necessary that said cities and towns be equipped to take advantage of such offer at once; therefore, an emergency is declared to exist and this act shall take effect immediately upon its passage and approval by the Governor.

By Mr. Vansant.

H. Res. 23. A JOINT RESOLUTION appropriating from the General Fund of the State of Kentucky one hundred and ten dollars and sixty cents ($110.60) to pay a claim for services rendered by Cecil Pennington in performance of his duties as Sheriff of Elliott County, Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on October 11, 1935, Cecil Pennington, Sheriff of Elliott County presented to the Elliott Circuit Court his itemized account, for services rendered by him as Sheriff of Elliott County; and

WHEREAS, the account was made in proper form, and was sworn to by Cecil Pennington before the clerk of the Elliott Circuit Court, and examined, approved and allowed by Hon. G. W. E. Wolfford, Judge of the Elliott Circuit Court; and

WHEREAS, the account shows that the sum of one hundred and ten dollars and sixty cents ($110.60) is due and owing to said Cecil Pennington, for rendering the following services between the following dates:

Making arrests for felony, between October 24, 1934 and October 11, 1935;

Summoning witnesses for the Commonwealth in felony cases, between October 24, 1934 and October 11, 1935;

Conveying Ruley Henson from Ashland, Kentucky, to Sandy Hook, Kentucky, a distance of seventy-seven miles, on October 11, 1935, and conveying Charlie Crum from Morehead, Kentucky, to Sandy Hook, Kentucky, a distance of thirty miles, on March 23, 1935; and

Waiting on the Special December Term, 1934, of the Elliott Circuit Court, three days; on the Regular March, 1935, Term, six days; on the Regular July, 1935, Term, six days; and on the Regular October, 1935, Term, five days; and

WHEREAS, this claim has been rejected by the State of Kentucky, and more than ninety days have elapsed since the end of the fiscal year ending June 30, 1935; Now, therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

There is hereby appropriated from the General Fund of the State of Kentucky the sum of one hundred and ten

dollars and sixty cents ($110.60) for the purpose of paying Cecil Pennington for the services rendered, and the Department of Finance shall draw its warrant upon the Treasurer for that amount.

Ordered that said bills and resolution be printed and referred.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Smither of the Committee on Suffrage and Election.

H. B. 43. An Act to provide for the correction of omissions, irregularities, errors, mistakes of election officers.

Without an expression of opinion.

H. B. 96. An Act providing that the registration books of voters in voting precincts within a city of 3rd class which is not the county seat of the county within which it is situated shall be taken to the courthouse of city hall of such 3rd class city.

By Mr. Vansant of the Committee on County and City Courts.

H. B. 30. An Act to repeal, amend and re-enact Sec. 4127 of Carroll's Kentucky Statutes being Sec. 3 of Chapter 130 of the Acts of the Regular Session of the General Assembly of 1928, providing compensation for the members and clerk of the county board of supervisors.

H. B. 62. An Act amending and re-enacting Sec. 532 of Carroll's Kentucky Statutes, 1936 Edition.

Without an expression of opinion.

H. B. 70. An Act to repeal, amend and re-enact Sec. 3, chapter 67 of the Acts of March 19, 1908 known as Section 331e-3, Carroll's Kentucky Statutes, 1936 Edition.

H. B. 71. An Act authorizing the fiscal court of any county to institute condemnation proceedings to acquire lands for public roads, streets, alleys etc.

With the expression of opinion that said bills ought to pass, with the exception of those specifically set out above.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 166. An Act relating to chain stores or multiple mercantile establishments and imposing a license fee on such businesses, etc.

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers, and penalties relating to the listing, assessment, and taxation of certain intangible property.

H. B. 31. An Act entitled An Act authorizing cities of the second, third, fourth, fifth and sixth classes to provide public liability insurance for the police and fire departments and the members thereof;

H. B. 37. An Act to repeal Sec. 574 and to amend subsec. 1 of Sec. 575 of the Civil Code of Practice.

H. B. 38. An Act to amend subsec. 1 of sec. 606 of the Civil Code of Practice, Carroll's 1938 Edition.

H. B. 121. An Act to repeal, amend and re-enact Chapter 16 of the Acts of the General Assembly of the Commonwealth of Kentucky in Extraordinary Session which was begun in the city of Frankfort, Kentucky on Monday, March 30, and ended on Saturday, May 9, 1936 now codified as Section 4238 Carroll's Kentucky Statutes, etc.

H. B. 158. An Act to amend Sec. 1234 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

H. B. 159. An Act to amend Chapter 94 of the Acts of 1936 and Chapter 56, 57, and 58 of the Acts of 1938 relating to Old Age Assistance.

H. B. 160. An Act to repeal, amend and re-enact Sec. 263b-16 of Carroll's Kentucky Statutes, 1938 Revision, being Section 16 of Chapter 1 of the Acts, passed by the General Assembly at the Second Extraordinary Session of 1938 and providing for the admission of persons to hospitals and institutions;

H. B. 161. An Act to prohibit the taking, enticing, assisting to escape or the encouraging to escape lawfully committed inmates from the State Hospitals for the Insane, etc.

H. B. 162. An Act providing for the transfer of feeble-minded and/or insane prisoners to State Hospitals and/or Feeble-minded Institutes.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 114. An Act relating to old age assistance repealing section 3766b-11 of Carroll's Kentucky Statutes, 1936 Edition, and Chapters 56 and 57 of the Acts of 1938 and abolishing existing liens and reimbursement agreements executed by old age assistance recipients.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, and chapters 56 and 57 of the Acts of 1938, compiled as sections 3766bb-11a and 3766bb-11b of Baldwin's Kentucky Statute Service, May, 1938, are repealed.

§ 2. All liens created and all reimbursement agreements executed pursuant to section 3766bb-11 of Carroll's Kentucky Statutes, 1936 edition, not enforced by collection at the time this Act takes effect, are void.

§ 3. Since the liens created by the present laws work a hardship on many aged persons in need of old age assistance, an emergency is declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
J. Everett Bach
H. T. Baker
Wm. T. Beard
Alvis S. Bennett
Rell Bevins
Sterling B. Blake
Douglas T. Bolling
J. F. Bosworth
W. S. Brim
C. J. Bronston
Gus A. Brooks
Randolph A. Brown
Haynes Carman
Charles M. Carter
James W. Chapman
John Coulter
John H. Cox
Pink G. Curd
F. E. Daugherty
Stanley S. Dickson
Forest C. Easley
D. E. Edwards
Harry W. Ennis
R. R. Ernst
Carlos Fallis
T. P. Fitzpatrick
Wayne Freeman
Eugene Gough
Van Y. Greene
Ralph C. Hamilton
C. L. Hammons
T. H. Hickey
Clyde S. Howard
Chester Huffines
John M. Hunnicutt
W. H. Hunt
R. L. Jackson
J. B. Jarboe, Jr.
Chas. X. Jones
John S. Juett
William K. King
W. A. Lamkin, Jr.
Robert E. Lee
Edward Leslie
W. Paul Lyon
C. C. May
T. B. McConnell
Frank C. McElwain
E. Hayes McMakin
Norris McPherson
G. Sam Milam
Stanley C. Moebus
John B. Mollette
Davis Moore
J. Lee Moore
Joe T. Morgan
C. Homer Neikirk
Carl D. Perkins
B. W. Porter
H. O. Porter
Kleber F. Price
Hobart Rayburn
Thomas Rigdon
W. H. Riley
Joe E. Robinson
Lyman Roll
Jack Savage
Carl Scheben
Leon J. Shaikun
Ray O. Shehan
Faust Y. Simpson
Bruce Sloan
Otto Smither
E. T. Sparks
J. Claude Stacy
Ray J. Stengel
Henry Stewart
T. M. Swope
Otis C. Thomas
Erna E. Tyra
J. Wood Vance
Walter R. Vansant
S. J. Wagner
Porter Wallace
Harry F. Walters
Henry Ward
H. L. Waterfield
Otis White
James H. Woods
Mr. Speaker

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Resolved that the title thereof be as aforesaid.

Mr. May moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 117. An Act relating to revenue and taxation and more especially repealing, amending, and re-enacting section 4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and repealing sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision; and declaring an emergency to exist.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 4281c-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be and the same is hereby repealed, amended, and re-enacted so that when re-enacted said sections shall read as follows:

Rate of Tax on Spirits.—There is hereby levied upon the use, sale, or distribution by sale or gift a tax of one dollar and twenty cents ($1.20) on each wine gallon of spirits, and a like or proportional rate per gallon on all spirits used, sold, or distributed in any other container of more or less than one (1) gallon; provided, however, that the rate of tax on spirits in retail containers of one-half pint shall be eight cents

(8c). Nothing herein contained shall affect or be deemed to affect or to repeal, amend, or modify any tax imposed by any provisions of Chapter 149 of the Acts of the General Assembly of 1934, or to impose any tax on distilled spirits or wine purchased by holders of and used in the manner authorized by holders of special licenses provided in subsections two and three of section thirty of Chapter Two of the Acts of the 1938 Regular Session of the General Assembly.

§ 2. *Tax on Use and Sale of Inventories on Hand.*—On spirits acquired but not disposed of by a wholesaler or by a retail outlet before the effective date of this Act upon which the tax imposed by sections 4281c-4 and 4281c-25, Carroll's Kentucky Statutes, Baldwin's 1936 Revision has been paid, and to which Kentucky revenue stamps have been affixed in the amount of one dollar and four cents ($1.04) on each wine gallon, and a like or proportional rate per gallon on any other container of more or less than one (1) gallon or seven cents ($0.07) in the case of retail containers of one-half pint, there is hereby imposed for the use or first sale or distribution by gift or sale thereof, an additional tax of sixteen cents (16c) on each wine gallon used, sold or distributed by gift or sale and a like or proportional rate per gallon on spirits used, sold, or distributed in any other container of more or less than one (1) gallon. Payment of the tax imposed by this section must be evidenced by the affixing of Kentucky revenue stamps on the retail containers of such spirits, which stamps shall be purchased from and issued by the Department of Revenue and affixed in such manner as the Department of Revenue may prescribe. Such affixation must be made not later than 1:00 a.m. on the effective date of this Act.

§ 3. *Section Repealed.*—That sections 4281c-23 and 4281c-25 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be and the same are hereby repealed.

§ 4. *Declaring an Emergency.*—The present State revenue does not meet the needs for maintenance of the State

government, its agencies, subdivisions, and institutions, and an emergency is hereby declared to exist. This Act, upon its passage and approval by the Governor, shall become effective as soon as administratively practicable, which is hereby declared to be at 1:00 a.m. on the first Monday after the expiration of thirty (30) days from the date on which it is signed by the Governor.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Stanley S. Dickson	W. A. Lamkin, Jr.
J. Everett Bach	D. E. Edwards	Robert E. Lee
H. T. Baker	Harry W. Ennis	Harvey D. Leonard
Wm. T. Beard	R. R. Ernst	Edward Leslie
Alvis S. Bennett	Carlos Fallis	W. Paul Lyon
Rell Bevins	T. P. Fitzpatrick	C. C. May
Sterling B. Blake	Wayne Freeman	T. B. McConnell
Douglas T. Bolling	Van Y. Greene	Frank C. McElwain
J. F. Bosworth	Ralph C. Hamilton	E. Hayes McMakin
W. S. Brim	C. L. Hammons	Norris McPherson
C. J. Bronston	T. H. Hickey	G. Sam Milam
Randolph A. Brown	Clyde S. Howard	Stanley C. Moebus
Haynes Carman	Chester Huffines	John B. Mollette
Charles M. Carter	John M. Hunnicutt	Davis Moore
James W. Chapman	W. H. Hunt	J. Lee Moore
S. B. Chrisman	R. L. Jackson	Joe T. Morgan
John Coulter	Chas. X. Jones	C. Homer Neikirk
John H. Cox	John S. Juett	Carl D. Perkins
F. E. Daugherty	William K. King	B. W. Porter

H. O. Porter	Bruce Sloan	J. Wood Vance
Kleber F. Price	Otto Smither	Walter R. Vansant
Hobart Rayburn	E. T. Sparks	S. J. Wagner
Thomas Rigdon	G. C. Springate	Porter Wallace
W. H. Riley	J. Claude Stacy	Harry F. Walters
Joe E. Robinson	Ray J. Stengel	Henry Ward
Lyman Roll	Henry Stewart	H. L. Waterfield
Carl Scheben	W. St. Clair Stuart	Otis White
Leon J. Shaikun	T. M. Swope	James H. Woods
Ray O. Shehan	Otis C. Thomas	
Faust Y. Simpson	Erna E. Tyra	

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Those who voted in the negative were—

Forest C. Easley J. B. Jarboe, Jr. Jack Savage

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Resolved that the title thereof be as aforesaid.

Mr. Simpson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Shaikum moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. King.

H. B. 174. AN ACT to regulate the use of certain types of text books in the public schools of Kentucky and to provide penalties for the violation of this act.

Said bill is as follows, viz.:

WHEREAS: it appears that certain text books have been used in our public schools which are designed and printed and taught in a manner that is damaging, discrediting, destroying respect, and professional standing of certain legalized schools and methods of healing.

Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That no person or persons connected with the public school system of Kentucky shall use or cause to be used, read or taught in the public schools of Kentucky any text book or printed matter of any kind whatsoever, which contains any statement or statements which criticizes, condemns or contains derogatory statements which could be deemed discrediting, discriminating, or harmful to any legally constituted school or system of healing, science, or profession in the state of Kentucky.

PENALTY: Any one violating the provisions of this statute shall be subject to a fine of from fifty dollars ($50.00) to five hundred dollars ($500.00) or imprisonment in the County jail for, from thirty days to six months or both.

By Mr. Shaikun.

H. B. 175. AN ACT to define, license, and regulate the business of making loans or advancements upon motor vehicles as security therefor or of deferring the purchase price of motor vehicles bound as security for the payment thereof, in the amount or value of five hundred ($500) dollars or less, at a greater rate of interest or charge or total consideration therefor than six per cent (6%) per annum; defining the character and form of loans which may be made, providing the rate of interest thereon and charges relative thereto, and prescribing the time and manner of collecting interest, charges, and payments; providing for the preparation, form,

general contents, execution, and acknowledgment of loan certificates, and providing for the deposit and the recording thereof, by abstract, in the offices of clerks of county courts, with other instruments assigned to licensees as security, and for the disposition thereof, and the rights and duties thereunder; defining the services required of county court clerks in the administration of this Act and providing fees therefor; prohibiting the writing of motor vehicles insurance or acceptance of compensation therefor by licensees; providing for sale of motor vehicles as security and requiring notice of sale and fixing the responsibility of licensees who possess or sell motor vehicles except under legal process; requiring statements of ownership to be filed with county court clerks, and for designation with the Secretary of State of agents for process by certain licensees; charging the Banking Commissioner with the administration of this Act, providing for applications for license hereunder, license and investigation fees and periodic examination fees to be collected by the Commissioner and the disposition thereof, authorizing the making of investigations and examinations and the publication of reports; defining the eligibility of licensees, and providing for the issual, suspension, reinstatement, revocation and surrender of licenses and for a review of decisions of the Commissioner; providing for rules and regulations by the Commissioner; requiring the keeping of records and the giving of receipts by licensees; providing penalties for the violation of this Act; repealing so much of section 4224a, Carroll's Kentucky Statutes (1936) as applies to licensees under this Act, and repealing all acts and parts of acts which relate to the same subject matter as this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The following terms, as used in this Act, shall have

the meanings stated, unless the context requires a different meaning: (a) "Person" includes individuals, partnerships, associations, and corporations; (b) "Licensee" means a person licensed under this Act; (c) "Commissioner" means the Commissioner of Banking of the Commonwealth of Kentucky; (d) "Loan" means any transaction by which a licensee, or other person, obtains legal or equitable title to or any interest of any nature in a motor vehicle as security for the payment of money; (e) "Borrower" means any person becoming obligated to repay a loan to a licensee, or who has a legal or equitable interest in a motor vehicle which becomes bound as security to a licensee, or which motor vehicle becomes the subject of a transaction between a borrower and a licensee or a third person and a licensee; (f) "Motor vehicle" includes automobiles, trucks, motorcycles and other vehicles designed for carriage of passengers, materials, or merchandise upon highways and not upon rails and which are propelled by a motor within or upon the vehicle, and motorless cars, trucks, trailers and other devices designed to be attached to motor vehicles and to receive propulsion therefrom.

§ 2. No person shall, except as authorized in this Act and without first obtaining a license from the Commissioner as hereinafter provided, engage in the Commonwealth of Kentucky in the business of making loans in the amount or value of five hundred ($500) dollars or less upon motor vehicles as security for the payment thereof and charge, contract for, or receive, directly or indirectly, or by any device, subterfuge, or pretense whatsoever, a greater rate of interest, or consideration therefor than six (6%) per cent per annum.

Any person who engages in the said Commonwealth in the business of making loans or advances upon motor vehicles, (or of deferring payment of any part of the purchase price of motor vehicles), or of financing the entire of the contingent or conditional purchase of motor vehicles, or of re-financing existing loans or purchase agreements of which

motor vehicles are the subjects, either as principal or as agent or as broker, in the amount or value of five hundred ($500) dollars or less, and who charges or contracts for or receives, directly or indirectly, or by any device or subterfuge or pretense whatsoever, a greater rate of interest, or consideration therefor than six (6%) per cent per annum, and who takes or acquires or holds any new or existing liens upon or interests in motor vehicles for himself or another, or who takes or holds or acquires for himself or another, any new or existing right, whether present or future, or conditional or contingent, to exercise dominion over motor vehicles, for the purpose in any event of making such person secure against loss, shall be deemed to be engaged in the business of making loans upon motor vehicles within the provisions of this Act.

Every licensee under this Act may engage in the business of making loans of money in the amount or value of five hundred dollars or less, upon motor vehicles as security for the payment thereof, as hereinafter set forth, and may be compensated therefor, and may make charges in relation thereto as hereinafter provided.

§ 3. Every licensee may engage in such business by making direct loans, purchase loans, and re-financing loans, which do not extend, in any event, over a period loger than twenty-four (24) months.

A direct loan is any transaction by which a borrower obtains a loan of money from a licensee and in any manner binds a motor vehicle as security for the payment thereof, the motor vehicle not then being bound as security for the payment of any previous loan, in whole or part, or principal or interest, to the same or any other licensee.

A purchase loan is any transaction by which a licensee finances for a borrower an absolute or a conditional, or a contingent purchase of a motor vehicle, in consequence of which the borrower becomes obligated to pay to the licensee

any sum of money representing any part of the principal or interest of the purchase price of the motor vehicle, or in consequence of which the motor vehicle is bound as security for the payment to a licensee of any part of the principal or interest of its purchase price. A re-financing loan is any transaction by which borrower obtains a re-financing of an existing direct loan or purchase loan from the same or another licensee, a motor vehicle in which the borrower has any absolute, or conditional, or contingent title, right, or interest, being at the time bound as security for the payment of the existing loan. When a borrower obtains a loan from the licensee to re-finance an existing loan previously made to the borrower by a person who is not at the time of the re-financing a licensee, such transaction shall be deemed to be a direct loan.

No co-maker, surety, or guarantor shall be taken by a licensee upon any loan made or re-financed by the said licensee, and no security of any kind other than upon motor vehicles shall be taken originally by any licensee.

§ 4. Every licensee making a direct loan or purchase loan may deduct interest thereon in advance for not exceeding twenty-four (24) months at the rate of six per cent (6%) per annum, and may require and receive uniform weekly, semi-monthly, or monthly installments in payment of the loan, and in addition thereto may charge and deduct in advance one ($1) dollar for each fifty ($50) dollars or fraction thereof loaned for expenses, including any examination or investigation of the character and condition of the borrower and the situation and condition of the motor vehicle offered as security; but no charge shall be made unless a loan shall have been made as a result of such examination or investigation.

Every licensee making a re-financing loan may make a flat charge of five ($5) dollars for expenses thereof, including such examination or investigation as above described, but no charge shall be made unless a re-financing loan shall

have been made as a result thereof. Whenever a re-financing loan is about to be made the licensee holding the existing loan that is about to be re-financed shall credit upon the unpaid principal balance thereof any unearned interest previously deducted or collected thereon, whereupon the re-financing loan may be made, and the licensee making the re-finacing loan may, in addition to the five ($5) dollars expense, deduct therefrom interest at the rate of six per cent (6%) per annum thereon for not exceeding twenty-four (24) months and may require and receive payment as hereinabove provided.

No re-financing loan shall be made by any licensee, however, within three months next following the making of any previous loan upon the same motor vehicle as security, and any licensee who violates this prohibition shall forfeit the five ($5) dollars charge hereinabove provided and all interest upon the re-financing loan, and the same, with the said expense charge, shall be applied as a credit upon the principal balance of the re-financing loan.

In addition to the expense charges and interest aforesaid, a licensee may either deduct in advance from the loan made, or collect in cash from the borrower, the actual fees required by law for the recording of any written instrument which is a necessary part of the loan transaction, or for nothing of record any necessary assignments thereof.

§ 5. Whenever a licensee, as a consequence of any loan transaction, acquires or receives any pre-existing note, contract, mortgage, conditional sale agreement, lease, option, or other instrument providing any right against the borrower, or which provides any lien upon or interest in or right to exercise any dominion over the motor vehicle which is the subject of the loan transaction, the licensee shall accept and receive such instrument, and all liens, interests, and rights existing thereunder, whether absolute, conditional, or contingent, as an assignee thereof, and not in any other character.

Whenever a licensee shall receive or accept transfer of any such instrument or instruments, or rights thereunder in any other manner than by assignment and in any other character than as assignee thereof, the attempted transfer thereof to the licensee shall be void and the licensee shall not become invested with any rights or interests thereto or thereunder whatsoever. When any such instruments are of record at the time of the loan transaction, the licensee may cause the assignment thereof to the licensee to be noted of record.

No licensee who makes a purchase loan, or in any manner finances the purchase of a motor vehicle, shall accept or receive the assignment of any such instrument or instruments unless the assignment thereof to the licensee is endorsed thereon and executed and sworn to by the assignor, nor unless the said assignment endorsement correctly states the actual purchase price of the said motor vehicle, nor unless the said assignment endorsement states the actual amount of money, or value in terms of money, paid or provided to the assignor by the borrower as an initial or down payment upon the purchase price of the said vehicle, nor unless the said endorsement also contains a description sufficient to identify the motor vehicle which is the subject thereof; otherwise, the loan transaction shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever. In the event of any controversy, arbritation, or litigation in which the value of the motor vehicle is material, or in the event of any sale of the said motor vehicle to enforce or performance of any obligation for the benefit of a licensee, or to protect a licensee from loss, the actual purchase price of the motor vehicle shall be conclusive evidence of the value thereof at the date of the assignment.

§ 6. When licensee makes any of the loans hereinabove described, he shall prepare a loan certificate and cause the same to be executed, acknowledged, and recorded as hereinafter provided. The loan certificate shall be entitled

at the top, and upon the back, in prominent print, as a "Direct Loan Certificate," or "Purchase Loan Certificate," or "Re-financing Loan Certificate," as the case may be. Each loan certificate shall be in the English language, shall contain the name and address of borrower and licensee, the principal sum of the loan, a statement of the actual amount of interest deducted, a statement of the actual amount of charges made the terms and conditions of payment, adequate description of the motor vehicle accepted as security a list of and description of any other security taken or received or accepted and if any part thereof is of record, the book, page and office where recorded; the correct date, and such other provisions as the licensee shall consider to be desirable. The said certificate shall be prepared by the licensee and executed and acknowledged by the borrower in triplicate, and one copy shall be given forthwith to the borrower, one shall be retained by the licensee, and one shall be recorded as hereinafter provided. Either copy, or an attested copy of the copy which is of record, shall be acceptable in evidence in any litigation. When a loan is paid, or re-financed, the licensee who receives payment shall stamp his own and the borrower's copies as "cancelled," and shall cause the clerk of the county court in whose office the third copy is of record to stamp the recorded copy as "cancelled," and the date shall be inserted, and the licensee shall countersign the cancellation of the borrower's copy, and the cancellation of the recorded copy. The borrower's copy, so cancelled, shall be returned to the borrower forthwith. The recorded copy shall be retained of record by the county court clerk for one year thereafter and may then be destroyed by the said clerk. When a loan is paid the licensee shall forthwith release any mortgage, restore any pledge, and cancel and return to the borrower every note, contract, instrument and assignment held by the licensee or for the licensee's benefit. When a loan is re-financed, the licensee receiving payment may make an assignment of any

mortgage, pledge, or other instrument or security held by said licensee to the licensee making the re-financing loan. The entire agreement between borrower and licensee shall be included in and evidenced by the loan certificate, which shall be deemed to include all of the terms and conditions thereof.

§ 7. When a borrower executes and acknowledges a loan certificate as required by this Act and the loan transaction is completed, such character and form of security for the payment of the loan as the loan certificate describes and lists shall be deemed to be in effect, and such rights to subject the security for the payment of the loan as the loan certificate sets forth shall be deemed to be created in the licensee and to inure to the licensee. Upon default by the borrower, the licensee may proceed to subject any security listed and described in the loan certificate to the payment of the defaulted part of the loan, either by legal process, or in such other manner as the loan certificate prescribes, consistently with this Act.

§ 8. It shall not be necessary to record loan certificates, and such certificates shall not be recorded at length, but upon the filing of such certificates and the indexing and entering of an abstract of the facts in a Motor Loan Minute Book as herein directed in the office of the clerk of the county court, all persons shall be charged with notice of the provisions of the loan certificate, and the rights of the licensee, his assigns, and representatives thereunder. When the borrower resides in the county where the loan is made the recording shall be in that county; where the borrower resides in one county and obtains a loan in another, the recording shall be first in the county where the loan is made, and also in the county of the borrower's residence, by the recording therein of a copy stamped duplicate, and noting the county where first recorded, and attested by the clerk of the county court of the original county.

One properly executed and acknowledged copy of the loan certificate shall be deposited with the clerk of the county court, and held by said clerk as being of record, and preserved by him in an envelope or jacket bearing an appropriate number and the names of borrower and lender hereon, and filed in a manner conveniencing the examination thereof by anyone so desiring. When the motor vehicle which is the subject of a loan certificate is released by payment of the loan, or the re-financing thereof, or in any other manner, the said clerk shall, at the discretion of the licensee making the release, stamp the loan certificate as cancelled, the releasing licensee shall countersign the same in the clerk's presence, and the latter shall attest the countersignature. The said clerk shall retain the cancelled certificate on file for one year thereafter, when he may destroy same.

The Motor Loan Minute Book shall be alphabetically arranged and entries shall be made therein alphabetically, according to the names of borrowers. The pages thereof shall be divided into columns for entry of the following facts; date of loan; name of borrower; name of the lending licensee; type of loan, which may be shown by apt abbreviation; description of motor vehicle, which may be by year and name of manufacturer; date released; notation of how released, which shall show whether the release of the motor vehicle described was by payment, re-financing, or sale, or otherwise; a column for entry of the number of the envelope or jacket in which the loan certificate being indexed and abstracted is filed; and finally, a column for remarks, in which any miscellaneous or other information not elsewhere provided for shall be entered. In another section of the said Minute Book the names of the licensees making the loans recorded and the names of the borrowers shall be entered alphabtically, according to the names of the lenders, as a cross-index, but the information abstracted under the alphabetical arrangement of borrower's names shall not be repeated. In the front part of

the said Book the said clerk shall keep a list of the names of the licensees doing business under this Act in his county, and he shall receive such information relative thereto as hereinafter provided.

Whenever a county court clerk receives notice from the Commissioner that a license has been granted for the doing of business under this Act in the county of said clerk, or notice from the Commissioner that an existing license has been suspended or revoked or surrendered, the said clerk shall make appropriate entrying noting the fact in the Motor Loan Minute Book. Whenever a licensee qualifies to engage in the business herein provided for in the county for which his license is issued, as hereinafter prescribed, the said clerk shall also note that fact in the said Minute Book. The county clerks may charge and collect the fees and charges for their services under this Act as hereinafter provided.

§ 9. Every licensee may require any borrower to carry appropriate insurane upon the motor vehicle offered as security for a loan, and to endorse or assign the policies therefor to the licensee to the extent that the licensee's interest may appear, as a part of the consideration for the loan, but no licensee shall himself act as insurer, or as agent, or broker, or otherwise for any insurer writing insurance upon motor vehicles, nor shall any licensee reveive any fee, commission, or other compensation, or reward, or gratuity from any insurer, at any time, or for any purpose.

The types of insurance, and the conditions under which a licensee may accept insurance and hold the same as additional security shall be provided by the Commissioner by appropriate regulation. No licensee shall receive or charge any fee or accept any money or equivalent from any borrower, for insurance.

§ 10. No motor vehicle, taken possession of by or for a licensee under any provision of the loan certificate authorizing such taking and sale without legal process, or under

any instrument assigned to the licensee so providing, shall be sold without notice to the borrower at his last known address by registered mail, and to support such sale the notice shall inform the borrower of the time and place of sale and amount in default upon his loan, and shall have been mailed at least seven days prior to the time when said sale is to be held. Any person desiring to inspect said motor vehicle in contemplation of making an offer therefor shall have reasonable opportunity for such inspection, and if the borrower desires to have an appraiser or examination of the said motor vehicle prior to the sale he shall have reasonable opportunity therefor, and the forgoing provisions shall apply even though the licensee elects to hold a sale after public notice such as is required for sales of personalty under execution or other legal process. Whenever a sale of a motor vehicle by authority of a contract provision and not as a result of litigation and under legal process is held, the licensee for whose claim the sale is had shall be deemed to be a bailee of the motor vehicle for the mutual benefit of himself and the borrower, and shall be liable in damages, or by way of set-off against any deficiency, to the borrower for failure to fulfill the duties and responsibilities developing by law upon such bailees; furthermore, the said licensee shall likewise be deemed to be a bailee for the mutual benefit of himself and the borrower and subject to the responsibilities thereof, during the entire time the said motor vehicle is in the possession or under the control of the said licensee.

No licensee shall hold himself out to be, or shall act as agent for a borrower to promote the sale of, or in the sale of any motor vehicle so sold, whether the borrower has voluntarily surrendered the vehicle, or agreed to the sale, or not. No agreement by any borrower waiving the notice herein required shall be effective. Within forty-eight hours after such a sale, the licensee for or by whom the sale was had shall report the sale, its date, name and address of pur-

chaser, and amount sold for to the county court clerk, who shall record the information in the Minute Book, under dispositions and remarks. The provisions of this section shall not apply, however, to sales held after litigation and under legal process.

§ 11. Every licensee, upon being licensed to engage in business under this Act, shall file a statement in the office of the clerk of the county court of the county in which the licensee is licensed to engage in business. If the licensee is not incorporated, the statement shall furnish the name under which the business is to be conducted, the names and addresses of the owners thereof, and the address of the place of business in the county; if the licensee is a corporation the statement shall furnish the name thereof, the place and date of its incorporation, the address of its principal office, the names of its officers and directors and their addresses, and the location where business is to be done in the said county. Whenever a licensee is a non-resident of this Commonwealth, or has no resident member, or is a corporation, the licensee shall file with the secretary of state of this Commonwealth the name of an agent in this Commonwealth upon whom processes may be executed in the same manner and form as corporations are required by law to do and having the same effect. Failure to fully meet the requirements of this section shall be cause for suspension of license without notice until this section is fully complied with. A new statement shall be filed with the county clerk during December of each year.

§ 12. County court clerks shall charge and collect the following fees for the following services required of them by this Act: filing and indexing the annual statement of a licensee as required by section eleven, $5.00; recording each loan certificate, $1; indexing and abstracting the same in the Motor Loan Minute Book, .50¢; for receiving and filing each other writing deposited with the loan certificate, 10¢

canceling a loan certificate and entering a release notation upon the said Minute Book, .25¢; fee noting assignments of mortgages or other writing already of record, and for noting of record releases thereof, such fees as are provided by law; for attested or duplicate copy of a loan certificate $1; such fees, when so collected, shall be used and accounted for by the said clerk as other fees collected by him are required to be used and accounted for.

§ 13. Each application for a license under this Act shall be made in writing, under oath or affirmation, to the Commissioner in such form as he may prescribe. Such application shall contain (1) in the case of an individual, his name and the address of his residence and place of business; (2) in the case of a partnership or association, the name and address of every member thereof and the address of the place where such business is to be conducted; (3) in the case of a corporation, the names and addresses of the officers and the directors thereof and the address of the place where such business is to be conducted; and (4) such additional information as the Commissioner may prescribe.

Each applicant shall prove, in form satifactory to the Commissioner, that said applicant has a net worth of at least ten thousand dollars ($10.000), and has available for the purpose of making loans under this Act at the location specified in the application, liquid assets of at least ten thousand dollars ($10,000).

Each applicant at the time of making such application shall pay to the Commissioner the sum of fifty dollars (50) as a fee for investigating the application and the additional sum of two hundred and fifty dollars ($250) as an annual license fee for the period terminating on the last day of the current calendar year; provided, that if the application is filed after June thirtieth in any year such payment shall be one hundred and twenty-five dollars ($125) as such license fee in addition to the said fee for investigation. In addition to the said

annual license fee every licensee thereunder shall pay to the Commissioner the fees for each examination of his business as provided in Section 22 of this Act; and such applicant shall also file with his application a bond running to the Commonwealth of Kentucky in which the applicant shall be the obligor, in the sum of one thousand dollars ($1,000) with one or more sufficient sureties, whose liability as such sureties shall not exceed the said sum in the aggregate. Such bond shall be approved by the Commissioner and conditioned upon the compliance by the applicant with all the provisions of the Act and all rules and regulations lawfully made pursuant thereto. Any person injured by the non-compliance with any such provision, rule, or regulation by any licensee under this Act may maintain a suit in his own name in any court of competent jurisdiction and recover on the bond such damages as shall be adjudged by such court, together with costs of such suit. Recovery upon any such bond shall not preclude recovery against such licensee for any liability in excess of the amount recovered upon the bond, and such recovery shall not be held to extinguish any remedy under other law.

The bond or bonds which the licensee is required to file hereunder shall be renewed and refiled annually at the time of making payment of the annual fee. If the Commissioner shall find that any such bond has for any reason become insecure or exhausted, a like bond to be approved by the Commissioner in the sum of not more than one thousand dollars ($1,000) shall be filed by the licensee within ten days after written demand therefor by the Commissioner.

§ 14. If the Commissioner approves the bond filed by the applicant and the form of the application, and finds after investigation (1) that the financial responsibility, experience; character, and general fitness of such applicant, and of the members thereof if the applicant is a partnership or association, and of the officers and directors thereof if the applicant

is a corporation, are such as to command the confidence of the community and to warrant the belief that the business of the applicant will be operated honestly, fairly, and efficiently in accordance with the purposes of this Act, (2) that permitting such applicant to engage in such business will promote the convenience and advantage of the community, and (3) that the applicant has a net worth of at least ten thousand dollars ($10,000) and has available for the purpose of making loans under this Act at the specified location liquid assets of at least ten thousand dollars ($10,000), the Commissioner shall issue to the applicant a license to make loans in accordance with the provisions of this Act at the location specified in said application. If the Commissioner does not so find, he shall not issue such license and he shall notify the applicant of the denial and return to the applicant the bond and the sum paid by the applicant as a license fee, retaining the fifty dollars ($50) investigation fee to cover the cost of investigating the application. The Commissioner shall approve or deny every application for license hereunder within sixty days from the filing thereof with the said fee and the said approved bond.

Every license issued shall state the address of the office at which the business is to be conducted, the name of the licensee, and if the licensee is a partnership or association, the names of the members thereof, and if a corporation, the date and place of its incorporation. Such license shall be kept conspicuously posted in the office of the licensee and shall not be transferable or assignable. Not more than one place of business shall be maintained under the same license but the Commissioner may issue more than one license to the same licensee upon compliance for each such license with all the provisions of this Act applicable to the original issuance of licenses. Whenever a licensee shall desire to change his place of business to another location within the same municipality the Commissioner, on application, if he finds that the interests of the community will be served thereby, shall indorse on the

license a transfer to new place of business, with the date of transfer, which indorsement shall be authority for the operation of such business under such license at such new location. No change in the place of business of a licensee to a location outside of the original municipality shall be permitted under the same license.

No licensee shall conduct the business authorized by this Act in any office, room, or place of business in which any other business is solicited or engaged in, or in associtaion or conjunction therewith, except upon a written authorization from the Commissioner. No such authorization shall be granted unless the Commissioner finds that the soliciting of or engaging in such other business in the same office, room, or place of business in which the business of making loans under this Act is conducted will not facilitate evasions of this Act. No licensee shall make any loan under this Act under any other name or at any other place of business than that stated in the license.

Each license shall remain in full force and effect until it is surrendered by the licensee or suspended or revoked as hereinafter provided. Each licensee shall, on or before the twentieth day of each December, pay to the Commissioner the annual license fee for the next succeeding calendar year.

The Commissioner shall, upon ten days' written notice to the licensee stating that he contemplates the revocation of his license, and, in general, the grounds therefor, revoke such license, after reasonable opportunity has been afforded to the licensee to be heard, if the Commissioner finds (1) that the licensee has failed to pay his annual license fee or to maintain in affect the bond or bonds required under this Act, or (2) that the licensee has violated any provision of this Act or has failed to comply with any rule or regulation lawfully made pursuant thereto, or (3) that any fact or condition then exists which clearly would warrant the Commissioner in refusing to issue a license on an original application. The Commissioner may, without notice or hearing, suspend any license for a period

not exceeding thirty days, pending investigation. The Commissioner shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the Commissioner in refusing originally to issue such license under this Act. Any licensee may surrender any license by delivery to the Commissioner written notice that he thereby surrenders such license.

Whenever the Commissioner shall refuse or deny any application for a license under the provisions of this Act or shall revoke any license issued pursuant to this Act, he shall forthwith file in the office of the Banking Commissioner of Kentucky a written order to that effect, stating his findings with respect thereto and his reasons supporting the denial or refusal or the revocation and shall forthwith serve upon the applicant for license or licenses a copy thereof and said applicant for license or licenses shall be entitled to appeal from said order to the Circuit Court of Franklin County, provided said appeal is filed within thirty days after the service of a copy of said order, and to the Court of Appeals of Kentucky from any decision of said Franklin County Circuit Court.

§ 15. No licensee shall advertise, print, display, publish, distribute, or broadcast, or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation which refers to the supervision by the Commonwealth of the business licensed hereunder. Nor shall any licensee or any other person knowingly in any such manner make or permit to be made any statement or representation with regard to the rates, terms, or conditions for making loans upon motor vehicles, in the sum of five hundred dollars ($500) or less, which is false, misleading, or deceptive.

§ 16. No person who is a licensee under this Act shall induce or permit any borrower or borrowers to split up or divide any loan or loans and shall not permit any one borrower or any husband or wife individually or together to become

indebted to him under more than one contract of loan at the same time.

§ 17. If any interest, consideration, or amount in excess of the interest or charges authorized by this Section is charged, contracted for, or received by any licensee under any contract of loan or loan transaction, such contract or transaction shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever.

§ 18. No licensee shall take any confession of judgement or any power of attorney. Nor shall any licensee take any loan certificate, note, promise to pay, or security directly or as assignee, that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of interest; nor take any instrument in which blanks are left which are to be filled in after the execution of such instrument. No instrument taken under authority of this Act shall be negotiable.

§ 19. Every licensee shall have at all times a net worth of at least ten thousand dollars ($10,000) and shall maintain at all times assets of at least ten thousand dollars ($10,000) either in liquid form available for or actually used in the making of loans under this Act at the location specified in the license.

§ 20. No person, except as authorized by this Act, shall, directly or indirectly, by any devise, subterfuge, or pretence whatsoever charge, contract for, or receive, or participate, as agent, broker or in any other capacity, in charging, contracting for, or receiving any interest, discount, or consideration greater than six percentum (6%) per annum upon any loan upon a motor vehicle in the amount or the value of five hundred dollars ($500) or less, and no loan made in violation of the provisions of this Act shall be valid or enforceable within this Commonwealth.

Any loan upon a motor vehicle in the amount or of the value of five hundred dollars ($500) or less for which there has been charged, contracted for, or received a greater rate of interest, or consideration than licensees are permitted to charge, contract for, or receive under this Act is hereby declared to be against the public policy of the Commonwealth. No such loans made outside the Commonwealth and every person in anywise participating therein in the Commonwealth shall be subject to the provisions of this Act; except that the provisions of this section shall not apply to loans legally made in any state in which there was in force at the time of making such loan a motor vehicle loan law the regulatory provisions of which are similar in principle to those contained in this Act.

§ 21. No licensee shall, directly, or indirectly charge, contract for or receive any interest, or consideration greater than six percentum (6%) per annum upon any loan upon a motor vehicle in the amount or of the value of more than five hundred dollars ($500), or in any case in which the licensee permits any individual as borrower, or otherwise, to owe directly or contingently, or both, to the licensee at any time the sum of more than five hundred dollars ($500) for principal. No licensee shall take any assignment of wages. If any such assignment is taken, it shall be void.

§ 22. The provision of this Act shall be enforced by the Commissioner, who is authorized to make such rules and regulations in addition hereto and not inconsistent herewith, as may be necessary for the proper conduct of the business licensed hereunder and for the enforcement of this Act. The Commissioner shall make an annual examination of the affairs, business, office, and records of every licensee, and such further examinations or investigations as he shall deem necessary for the purpose of discovering violations of this Act or of securing information necessary for its proper enforcement. For every examination made under this Act

the Commissioner shall charge the same fees as are allowed by statute for the examination of banks. For the purpose of making such examination or investigation the Commissioner and his duly designated representatives shall have authority to require the attendance of and to examine under oath all persons whomsoever, whose testimony he may require, relative to the loans or business of any such licensee, and shall have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under any license issued in accordance with this Act.

All moneys collected by the Commissioner under the provisions of this Act for license fees and examinations or otherwise shall be paid as collected into the State Treasury and then credited to an account of the Banking Department.

Each licensee shall annually on or before the fifteenth day of March file with the Commissioner a report giving such information as the Commissioner may require relevant to the business and operation during the preceding calendar year of each licensed place of business conducted by such licensee in the Commonwealth. Such report shall be made under oath and in the form prescribed by the Commissioner. The Commissioner shall make and publish annualy an analysis and recapitulation of such reports.

When a license is issued, or suspended, or revoked, or surrendered, or re-instated, the Commissioner shall forthwith notify the clerk of the county court in the county where the licensee is or was authorized to engage in business of such fact, by mail.

Each licensee shall keep and use in his business and shall preserve for at least two years after making the final entry on any loan recorded therein, such books, accounts, records, or cards system as will enable the Commissioner to determine whether such licensee is complying with the provisions of this Act and with the rules and regulations made pursuant thereto.

§ 23. Every licensee shall give to the borrower a plain and complete receipt for each payment made on account of any loan at the time such payment is made. Each receipt shall include the date when the loan was made, and the number given the loan certificate by the county court clerk in whose office the certificate is recorded.

§ 24. The borrower may pay all or any part of any loan at any time before the date of maturity thereof.

§ 25. Any individual, or any member, officer, director, agent, or employee of any association, partnership, or corporation, who shall violate or participate in the violation of any of the provisions of sections 2, 3, 4, 5, 6, 9, 10, 15, 16, 17, 18, 20, and 21 of this Act, shall, upon conviction thereof, be punished by a fine of not more than three hundred ($300) dollars or by imprisonment in the county jail for not more than six months or both, in addition to penalties elsewhere provided.

§ 26. This Act shall not apply to any person, partnership, association, or corporation doing business under and as permitted by any law of this commonwealth or of the United States relating to banks, savings banks, trust companies, trust banking and title insurance companies, building and loan associations, co-operative marketing associations, credit unions, or licensed pawnbrokers.

§ 27. So much of Section 4224a, Carroll's Kentucky Statutes (1936) as applies to persons licensed under this Act is hereby repealed. This Act shall not be construed as repealing or amending Section 2218 or Section 2219, Carroll's Kentucky Statutes (1930) but said Sections shall not apply to loans made under authority of this Act.

All other Acts and parts of Acts, whether general, special, or local, which relate to the same subject matters as this Act are hereby repealed.

§ 28. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the

remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

By Mr. Ennis.

H. B. 176. An Act making it unlawful to obtain goods, wares or mechandise from a merchant with intent to defraud the merchant thereof, and providing penalties therefor.

Said bill is as follows, viz.:

Be it enacted by the Generaly Assembly of the Commonwealth of Kentucky:

That it shall be unlawful for any person to obtain goods, wares or merchandise from a merchant with intent to defraud the merchant thereof, and if the value of the goods, wares or merchandise so obtained is under twenty ($20.00) dollars, then the person so defrauding shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding one hundred ($100.00) dollars, or confined in the county jail not less than one day nor more than ninety days, or either so fined and imprisoned, or both, in the discretion of the court or jury trying the case; and if the amount of said goods, wares or merchandise so obtained be twenty ($20.00) or over, the party so offending shall be guilty of a felony and upon conviction thereof shall be confined in the penitentiary for not less than one year nor more than two years.

By Mr. Bach.

H. B. 177. An Act relating to the filing of certificates of nomination.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. When any candidate for nomination for any public office in this state has been nominated in a primary election as

determined by the county or state election commissioners, a certificate of nomination shall be issued by the county or state election commissioners to said condidate in duplicate, the original of which shall be delivered by the county or state election commissioners to the county court clerk or to the Secretary of State as the case may be as is now provided by law, and the copy shall be delivered as is now provided by law to the successful candidate.

§ 2. Whenever any candidate is nominated by convention or by the governing authorities of any political party other than in a primary election as is now provided by law, the governing authorities of said political party shall issue to him a certificate of nomination in duplicate, the original of which shall be delivered to the county court clerk or the Secretary of State as the case may be as is now provided by law and the copy delivered to the successful candidate.

§ 3. The successful candidate in any primary election or the person nominated by any political party, by convention or otherwise as is now provided by law, shall not be required to file any certificate of nomination with the county court clerk or the Secretary of State in order to have his name placed upon the ballot at the general election following said primary or nomination, provided, however, that in the event the county election commissioners or the state election commissioners fail to file the original as herein provided the successful candidate or the person so nominated may file with the county court clerk or the secretary of state, as the case may be, the copy delivered to him by said election commissioners to be used by the county court clerk or the secretary of state for said purpose.

By Mr. H. O. Porter.

H. B. 178. An Act to amend and re-enact Section 3747a-1 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3747a-1 of Carroll's Kentucky Statutes, 1936 Edition, be, and the same is hereby amended and reenacted so that when the same is so amended and reenacted it shall read as follows:

"Section 3747a-1. County, city and district officers, except in Jefferson county, to make and publish annual statement of collections.—Every public official of any county, graded school district, city, town or sub-division or district, less than a county, whose duty it is, by virtue of his office, to collect, receive, have the custody, control or disbursement of public funds of said county, graded school district, subdivision or district of said county, city or town, except in counties containing a city of the first class or a county or city which by law is required to make quarterly publication of its fiscal and financial affairs, shall at the expiration of each fiscal year prepare a sworn statement of such funds so collected, received, held or disbursed by him, during the fiscal year just closed, which statement shall show the amount of public funds collected and received and from what general sources received; the amount disbursed, for what purpose expended and to whom paid; and said official shall procure or include in or attach to said report as a part thereof a certificate from the cashier, or other proper officer of the bank or banks in which such funds are or have been during the year past deposited, showing the balance, if any, of such public funds to the credit of the official making such statement; and such officer shall within thirty days after the close of the fiscal year cause such statement to be published in full in a newspaper published in said county which has the largest bona fide circulation therein, and said officer shall file a written or printed copy of said statement, subscribed and

sworn to, in the office of the clerk of the county court of the county in which said officer resides, or holds office. Provided, that the publication required in this act shall be made in the size of type provided by law and at the rate provided by law, to be paid for out of the public funds in the hands of the officer making such statement.

§ 2. All acts and parts of acts in conflict herewith are to the extent of such conflict hereby repealed.

By Mr. McConnell.

H. B. 179. An Act to amend and re-enact Section 1727, Carroll's Official Kentucky Statutes, 1936 Edition as revised by Baldwin's Kentucky Statutes Service, 1938 Supplement, which section is a part of Article 2, Chapter 47, relating to fees.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1727, Carroll's Official Kentucky Statutes, 1936 Edition as revised by Baldwin's Kentucky Statutes Service, 1938 Supplement, which section is a part of Article 2, Chapter 47, relating to fees, be amended and re-enacted so that said section as amended and re-enacted shall read as follows:

Section 1727.—A sheriff shall not be required to execute any writ, process or summons in a civil action unless it be accompanied by the fee allowed for executing the same. If the writ, process or summons is not executed, the sheriff shall return the fee. The sheriff shall be required to keep an accurate account of all fees collected under this section and report the amount of same to the Fiscal Court for the purpose of determining the amount of his annual income.

Ordered that said bills be printed and referred.

Mr. Joe Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 119. An Act to repeal, amend, and re-enact Section 4281c-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to revenue and taxation, and more especially to the fixing of the rate of taxation on the use, sale or distribution of wine; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 4281c-3, Carroll's Kentucky Statutes, 1936 Revision, be and the same is hereby repealed, amended, and re-enacted so that when re-enacted it shall read as follows:

Rate of Tax on Wine.—There is hereby levied upon the use, sale or distribution by sale or gift a tax of Twenty-five Cents ($0.25) on each gallon of wine, and a like or proportional rate per gallon on the wine used, sold or distributed in any other container of more or less than one gallon; provided that in no event the tax be less than Two Cents ($0.02) on the sale or distribution of any retail container of wine. Provided, however, that the provisions of this Act shall not apply to the manufacture, sale, gift, or distribution of any wine manufactured, sold, given away or distributed and used solely for Sacramental purposes.

§ 2. *Declaring an Emergency.*—Whereas, the present state revenue does not meet the immediate needs of the maintenance of the state government, its agents and subdivisions, an emergency is hereby declared to exist, and this act shall become a law and be effective as soon after its passage and approval by the Governor as administratively practi-

cable, which is hereby declared to be thirty (30) days after this act is signed by the Governor

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. P. Fitzpatrick	Norris McPherson
J. Everett Bach	Wayne Freeman	G. Sam Milam
H. T. Baker	Eugene Gough	Stanley C. Moebus
Wm. T. Beard	Van Y. Greene	John B. Mollette
Rell Bevins	Ralph C. Hamilton	Davis Moore
Sterling B. Blake	C. L. Hammons	J. Lee Moore
Douglas T. Bolling	T. H. Hickey	Joe T. Morgan
J. F. Bosworth	Clyde S. Howard	C. Homer Neikirk
W. S. Brim	Chester Huffines	Carl D. Perkins
C. J. Bronston	John M. Hunnicutt	B. W. Porter
Gus A. Brooks	W. H. Hunt	H. O. Porter
Randolph A. Brown	R. L. Jackson	Kleber F. Price
Haynes Carman	Chas. X. Jones	Hobart Rayburn
James W. Chapman	John S. Juett	Thomas Rigdon
S. B. Chrisman	William K. King	W. H. Riley
John Coulter	W. A. Lamkin, Jr.	Joe E. Robinson
John H. Cox	Robert E. Lee	Lyman Roll
Pink G. Curd	Harvey D. Leonard	Jack Savage
F. E. Daugherty	Edward Leslie	Carl Scheben
Stanley S. Dickson	W. Paul Lyon	Leon J. Shaikun
Forest C. Easley	C. C. May	Ray O. Shehan
D. E. Edwards	T. B. McConnell	Faust Y. Simpson
Harry W. Ennis	Frank C. McElwain	Bruce Sloan
Carlos Fallis	E. Hayes McMakin	Otto Smither

G. C. Springate	Otis C. Thomas	Harry F. Walters
J. Claude Stacy	Erna E. Tyra	Henry Ward
Ray J. Stengel	J. Wood Vance	H. L. Waterfield
Henry Stewart	Walter R. Vansant	Otis White
W. St. Clair Stuart	S. J. Wagner	James H. Woods
T. M. Swope	Porter Wallace	—89

Those who voted in the negative were—

Alvis S. Bennett	J. B. Jarboe, Jr.	E. T. Sparks
R. R. Ernst		—4

Resolved that the title thereof be as aforesaid.

Mr. Brown moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day a bill entitled:

H. B. 93. AN ACT to repeal, amend and re-enact Sections 3049, 3117, 3119, 3126, 3131, 3133, 3143, 3144, 3144a and 3166 of the Kentucky Statutes (Carroll's 1936 edition), all of which sections are a part of the charter of municipalities of the second class relating to the councilmanic form of government; and declaring an emergency to exist.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 3049, Kentucky Statutes (Carroll's 1936 Edition), be and the same hereby is repealed, amended and re-enacted so that when said section is amended and re-enacted the same shall read as follows, to-wit:

Vacancies in all offices shall be filed by appointment by the mayor. Vacancies in offices elective by popular vote shall be filled by appointment by the mayor for the remainder of the term, except that a vacancy in the office of mayor shall be filled by appointment by the governor: Provided, that the unexpired term will end at the next succeeding annual election at which either city, town, county, district or state officers are to be elected. If the unexpired term will not end at the next succeeding annual election, at which either city, town, county, district or state officers are to be elected, and if three months intervene before said succeeding annual election, the office shall be filled as aforesaid until said election, and then said vacancy shall be filled by election for the remainder of the term. If three months do not intervene between the happening of said vacancy and the next succeeding election, at which city, town, county, district or state officers are to be elected, the office shall be filled by appointment by the mayor until the second succeeding annual election, at which city, town, district, or state officers are to be elected; and then, if any part of the term remains unexpired, the office shall be filled by election until the regular term for the election of officers to fill said offices. All officers, agents and employees of the city, in any of its departments, not required by Act of the General Assembly to be otherwise elected or appointed, shall be appointed by the mayor, and serve at his pleasure.

§ 2. That Section 3118, Kentucky Statutes (Carroll's 1936 Edition), be repealed, amended and re-enacted so that said section when amended and re-enacted shall read as follows, to-wit:

Section 3118. The Mayor shall appoint a Superintendent of Public Works, who shall serve at the pleasure of the Mayor. It shall be the duty of the General Council to fix his salary at not less than Three Thousand Dollars ($3,000.00) per annum. The Superintendent of Public Works shall make all appointments of employees in the Department of Public Works, who shall serve at the pleasure of the Superintendent, but he shall not undertake any improvements or perform any work, or make any appointments or employments, until said work and improvements shall have been authorized by ordinance, and until the number and compensation of appointees and employees shall have been fixed by ordinance, and the city shall not be held to any liability incurred by said Superintendent in violation of this provision.

§ 3. That Section 3119, Kentucky Statutes (Carroll's 1936 Edition), be repealed, amended and re-enacted so that said section when amended and re-enacted shall read as follows, to-wit:

Section 3119. Said Superintendent of Public Works shall have control of the operation of all of the public works and public buildings of the city, and shall have control over the construction, reconstruction, cleaning, repairing, grading, improving, maintenance, sprinkling, lighting, and using of all streets, alleys, avenues, lanes, market houses, bridges, sewers, drains, wells, cisterns, ditches, culverts, canals, streams, and water courses, sidewalks, curbs, and gutters in the city, and shall have charge of the lighting of public places and buildings, and such other matters as may be provided by Act of the General Assembly not inconsistent herewith, or by ordinance of the General Council consistent with the duties herein enumerated. He shall have charge of issuing of permits for all connections to be made with gas or water mains, or public or private sewers.

§ 4. That Section 3126, Kentucky Statutes (Carroll's 1936 Edition), be and the same is hereby repealed, amended

and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3126. The mayor shall, on or before July 1st succeeding his election, appoint an auditor, who shall serve at the pleasure of the mayor.

§ 5. That Section 3131, Kentucky Statutes (Carroll's 1936 Edition) be and the same is hereby repealed, amended and re-enacted so that when said section is amended and re-enacted the same shall read as follows, to-wit:

Section 3131. There shall be a City Treasurer elected by the qualified voters of the city, who shall receive such salary as shall be fixed by the General Council; provided, however, that said salary shall be fixed at not less than Three Thousand Dollars ($3,000.00) per annum. No person shall be eligible to the office of City Treasurer who has not attained the age of twenty-five (25) years at the time of his election. He shall have the authority to appoint a deputy, and to require said deputy to furnish bond as he deems necessary. It shall be the duty of the General Council to fix the salary of said deputy at not less than Twelve Hundred Dollars ($1,200.00) per annum. Said deputy shall perform such duties in the Treasurer's office as shall be prescribed by the Treasurer, and shall serve at the will of the Treasurer.

§ 6. That Section 3133, Kentucky Statutes (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3133. The Mayor shall appoint a City Clerk, who shall serve at the pleasure of the Mayor, and whose salary shall be fixed by the General Council at not less than Twenty-one Hundred Dollars ($2,100.00) per annum. It shall be the duty of the City Clerk, in person or by deputy, to attend all meetings of the General Council, both in joint and separate sessions, and to keep a true record, properly indexed, of its proceedings; to promptly and without delay present to the

Mayor for his consideration and action all ordinances, resolutions, and by-laws passed by the General Council, taking the receipt of the Mayor therefor, showing the date of delivery to the Mayor, and he shall note of record the action of the Mayor thereon. The Clerk shall keep the seal of the city, and affix the same when required by law. He shall have the authority to appoint a deputy, who shall serve at the pleasure of the Clerk. It shall be the duty of the General Council to fix said deputy's salary at not less than Twelve Hundred Dollars ($1,200.00) per year. Said deputy shall perform such duties as may be prescribed by the City Clerk.

§ 7. Section 3143, Kentucky Statutes (Carroll's 1936 Edition), be and the same is heerby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3143. In such cities of the second class as now own a water-works system there shall be a board to be styled "Commissioners of Water-works," to be composed of three members appointed by the Mayor. They shall have the qualifications required for aldermen, their terms of office shall be three years and until their successors are appointed and qualified, except that the members first appointed under this Act shall be appointed for one, two, and three years respectively, and thereafter one member shall be appointed each year for a term of three years. The first appointment of said commissioners shall be made in May, one thousand eight hundred and ninety-four. Said commissioners shall give bond for the faithful performance of their duties in the sum of five thousand dollars ($5,000.00), and they shall be paid such compensation as the general council may fix, not exceeding twelve hundred dollars ($1,200.00) per annum, nor less than three hundred dollars ($300.00) each per annum. Said commissioners shall control and manage the water-works and water system of the city; they may appoint and remove a superintendent, secretary, and other necessary employes and allow

them such compensation as the general council may approve. They shall make full monthly reports to the general council of the operation and condition of the water-works, or water system of the city, including all receipts, expenditures, repairs and work connected therewith. The city treasurer shall be ex officio treasurer of said board, two members of said board shall constitute a quorum for the transaction of all business of the board.

§ 8. That Section 3144, Kentucky Statutes (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3144. The mayor shall appoint a city engineer who shall serve at the pleasure of the mayor and whose salary shall be fixed by the General Council at not less than Eighteen Hundred Dollars ($1,800.00) per annum. He shall be not less than twenty-five (25) years of age and an elector of the city. His duties shall be such as the general council may prescribe by ordinance.

§ 9. Section 3144a, Kentucky Statutes (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3144a. It shall be the duty of the City Engineer to supervise all engineering work which is done by, for, or on account of the city, and he shall recommend to the General Council the employment of such skilled and common labor, and the purchase of such material, as he may deem necessary to the performance of his duties. All public work, and the materials used in such work, shall be inspected by him, and he shall certify his approval of the same before any payment is made upon any contract for public work. He shall have the authority to appoint an assistant, who shall serve at his will, and it shall be the duty of the assistant to keep a record of all transfers of real estate on a block map to be kept by the

city, and to render such assistance to the City Engineer as may be prescribed by said City Engineer. It shall be the duty of the General Council to fix the salary of the City Engineer at not less than Eighteen Hundred Dollars ($1,800.00) per annum; and it shall be the duty of the General Council to fix the salary of the assistant at not less than Twelve Hundred Dollars ($1,200.00) per annum.

§ 10. That Section 3166, Kentucky Statutes (Carroll's 1936 Edition), be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted the same shall read as follows, to-wit:

Section 3166. The Mayor shall appoint a City Solicitor, who shall be a regularly admitted and practicing attorney at law. He shall, in person or by his assistant, or by the City Attorney, appear for the city and attend to all cases in the circuit court and Court of Appeals wherein the city may be a party complainant or defendant, or a party in interest; he shall give advice to any and all city officials, and to the General Council, and shall attend in person or by his assistant, or by the City Attorney, the meetings of both boards of the General Council, or of any committee thereof, when requested, and shall supervise the preparation of all ordinances of the General Council, and all contracts to which the city may be a part, and shall attend to such other legal business as may be prescribed by the Mayor or by ordinance of the General Council. He shall have the authority to appoint an assistant in addition to the City Attorney, which assistant shall perform such duties as the City Solicitor may prescribe. The City Solicitor shall have the authority to appoint a stenographer, who shall perform such duties as he shall prescribe. It shall be the duty of the General Council to fix the salary of the City Solicitor at not less than Three Thousand Dollars ($3,000.00) per annum, and the salary of the Assistant City Solicitor at not less than Eighteen Hundred Dollars ($1,800.00) per annum, and the salary of the stenographer to

the City Solicitor at not less than Twelve Hundred Dollars ($1,200.00) per annum.

In addition to the legal duties for the city required of him under this Act, the City Solicitor may engage in the private practice of law and receive compensation therefor, provided he shall not accept private legal employment which is inconsistent with the interests of the city.

§ 11. It is the deliberate intention of the General Assembly to enact each section of this bill separate and if any section thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections contained herein.

Whereas, a controversy has arisen concerning the power of appointment of many of the employees of the cities of the second class operating under the councilmanic form of government, and

Whereas, in at least one of the cities of the second class operating under the councilmanic form of government, the Mayor and Board of Aldermen are unable to agree upon appointments and by reason of these facts, necessary governmental functions of said city have been retarded and are now being retarded, and the welfare of the public is thus affected.

An emergency is hereby declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

Mr. Chapman offered the following amendment to said bill, viz.:

Amend H. B. 93 in Section 7, page 5, lines 12 and 13, by striking out the words and figures "the first appointment of said Commissioners shall be made in May, One Thousand Eight Hundred and Ninety-four."

Said amendment was agreed to.

Mr. Chapman moved the Previous Question.

Thereupon the Speaker announced: "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Sheehan moved that the vote by which the Previous Question was ordered be reconsidered.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Chapman and Shehan, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Clyde S. Howard	Thomas Rigdon
Wm. T. Beard	Chester Huffines	Joe E. Robinson
Rell Bevins	John M. Hunnicutt	Lyman Roll
Sterling B. Blake	R. L. Jackson	Carl Scheben
W. S. Brim	J. B. Jarboe, Jr.	Leon J. Shaikun
C. J. Bronston	Chas. X. Jones	Faust Y. Simpson
Gus A. Brooks	John S. Juett	Otto Smither
Randolph A. Brown	William K. King	G. C. Springate
James W. Chapman	W. A. Lamkin, Jr.	J. Claude Stacy
John Coulter	Harvey D. Leonard	Ray J. Stengel
John H. Cox	Edward Leslie	W. St. Clair Stuart
Pink G. Curd	C. C. May	T. M. Swope
F. E. Daugherty	Frank C. McElwain	Erna E. Tyra
Stanley S. Dickson	E. Hayes McMakin	J. Wood Vance
Forest C. Easley	Norris McPherson	Walter R. Vansant
D. E. Edwards	G. Sam Milam	S. J. Wagner
Harry W. Ennis	Davis Moore	Harry F. Walters
T. P. Fitzpatrick	J. Lee Moore	Henry Ward
Wayne Freeman	Carl D. Perkins	H. L. Waterfield
Eugene Gough	H. O. Porter	James H. Woods
Van Y. Greene	Kleber F. Price	—62

Those who voted in the negative were—

C. W. Anderson, Jr.	W. H. Hunt	Ray O. Shehan
H. T. Baker	Robert E. Lee	Bruce Sloan
Alvis S. Bennett	W. Paul Lyon	E. T. Sparks
Haynes Carman	Stanley C. Moebus	Henry Stewart
Charles M. Carter	John B. Mollette	Otis C. Thomas
S. B. Chrisman	Joe T. Morgan	Porter Wallace
R. R. Ernst	C. Homer Neikirk	Otis White
C. L. Hammons	W. H. Riley.	
T. H. Hickey	Jack Savage	—25

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Forest C. Easley	William K. King
Wm. T. Beard	D. E. Edwards	W. A. Lamkin, Jr.
Rell Bevins	Harry W. Ennis	Harvey D. Leonard
Sterling B. Blake	T. P. Fitzpatrick	Edward Leslie
W. S. Brim	Wayne Freeman	C. C. May
C. J. Bronston	Eugene Gough	Frank C. McElwain
Gus A. Brooks	Van Y. Greene	E. Hayes McMakin
Randolph A. Brown	Clyde S. Howard	Norris McPherson
James W. Chapman	Chester Huffines	G. Sam Milam
John Coulter	John M. Hunnicutt	Davis Moore
John H. Cox	R. L. Jackson	J. Lee Moore
Pink G. Curd.	J. B. Jarboe, Jr.	Carl D. Perkins
F. E. Daugherty	Chas. X. Jones	H. O. Porter
Stanley S. Dickson	John S. Juett	Kleber F. Price

Thomas Rigdon	G. C. Springate	Walter R. Vansant
Joe E. Robinson	J. Claude Stacy	S. J. Wagner
Lyman Roll	Ray J. Stengel	Harry F. Walters
Carl Scheben	W. St. Clair Stuart	Henry Ward
Leon J. Shaikun	T. M. Swope	H. L. Waterfield
Faust Y. Simpson	Erna E. Tyra	James H. Woods
Otto Smither	J. Wood Vance	—62

Those who voted in the negative were—

C. W. Anderson, Jr.	W. H. Hunt	Ray O. Shehan
H. T. Baker	Robert E. Lee	Bruce Sloan
Alvis S. Bennett	W. Paul Lyon	E. T. Sparks
Haynes Carman	Stanley C. Moebus	Henry Stewart
Charles M. Carter	John B. Mollette	Otis C. Thomas
S. B. Chrisman	Joe T. Morgan	Porter Wallace
R. R. Ernst	C. Homer Neikirk	Otis White
C. L. Hammons	W. H. Riley	
T. H. Hickey	Jack Savage	—25

Resolved that the title thereof be as aforesaid.

Mr. Chapman moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a resolution which originated in this House, entitled:

H. Res. 1. Joint Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate and $750.00 as a contingent fund for the Clerk of the House.

With an amendment thereto as proposed and adopted by the Senate.

Ordered that said resolution be laid on the Clerk's desk.

Mr. Joe Robinson moved that the House do now adjourn to meet again on Monday, January 22, at one-thirty o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

MONDAY, JANUARY 22, 1940

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend C. W. Grant of the Methodist Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

J. Everett Bach	Charles M. Carter	Wayne Freeman
H. T. Baker	James W. Chapman	Van Y. Greene
G. M. Ballard	S. B. Chrisman	Ralph C. Hamilton
Robert E. Barry	John Coulter	C. L. Hammons
Wm. T. Beard	John H. Cox	T. H. Hickey
Alvis S. Bennett	Pink G. Curd	Clyde S. Howard
Rell Bevins	F. E. Daugherty	Chester Huffines
Sterling B. Blake	Stanley S. Dickson	John M. Hunnicutt
Douglas T. Bolling	Forest C. Easley	W. H. Hunt
J. F. Bosworth	D. E. Edwards	R. L. Jackson
W. S. Brim	Harry W. Ennis	J. B. Jarboe, Jr.
C. J. Bronston	R. R. Ernst	Chas. X. Jones
Gus A. Brooks	Carlos Fallis	John S. Juett
Randolph A. Brown	T. P. Fitzpatrick	William K. King
Haynes Carman	Cecil Florence	W. A. Lamkin, Jr.

Robert E. Lee	H. O. Porter	Henry Stewart
Harvey D. Leonard	Kleber F. Price	W. St. Clair Stuart
Edward Leslie	Hobart Rayburn	T. M. Swope
W. Paul Lyon	Thomas Rigdon	Otis C. Thomas
C. C. May	Joe E. Robinson	Erna E. Tyra
T. B. McConnell	Lyman Roll	J. Wood Vance
Frank C. McElwain	Jack Savage	Walter R. Vansant
E. Hayes McMakin	Carl Scheben	S. J. Wagner
Norris McPherson	Leon J. Shaikun	Porter Wallace
Stanley C. Moebus	Ray O. Shehan	Harry F. Walters
John B. Mollette	Faust Y. Simpson	Henry Ward
Davis Moore	Bruce Sloan	H. L. Waterfield
J. Lee Moore	Otto Smither	Otis White
Joe T. Morgan	E. T. Sparks	James H. Woods
C. Homer Neikirk	G. C. Springate	(Excused)
Carl D. Perkins	J. Claude Stacy	
B. W. Porter	Ray J. Stengel	—92

Mr. Neikirk moved that the reading of the Journal of Thursday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Joe Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Mollette moved that the privilege of the floor be extended to Mr. Harper and the Misses Joyce Gregory and Mildred Brown.

Said motion was agreed to.

Mr. Bosworth sent to the Clerk's desk the following petition from various veterans and citizens of the county of Bell, viz.:

Hon. Joe F. Bosworth,
Frankfort, Kentucky.

My dear Mr. Bosworth:

We have a bill coming before the Legislature exempting all War Veterans totally disabled, from taxation up to $1,000.00. Please work with Mr. Bennett from Ohio County who will introduce the bill. We, the undersigned veterans and citizens of Bell county ask you to do this for us.

With every good wish, I remain

DILLON A. COLLETT
Commander of Ed Ingram Camp No. 21
Spanish War Veterans

Which was read by the Clerk.

Mr. Ward moved that the Clerk of the House be allowed sufficient time for assigning numbers to bills and resolutions upon their introduction.

Said motion was agreed to.

The following bills and resolutions were introduced, viz.:

By Mr. Ward.

H. B. 180. AN ACT to provide for the marking and labeling of strawberries grown and packed in the Commonwealth of Kentucky; to define the grades of strawberries packed and offered for sale; to provide regulations for the packing and offering of the same for sale; to prescribe and provide means for the enforcement of this Act; to provide penalties for the violation thereof; and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. As used in this Act, the term "person" shall be construed to include both singular and plural, individuals, partnerships, copartnerships, corporations and associations; the term "grower" shall be construed to mean a bona fide producer of strawberries, either by himself or by tenant or share-cropper or hired person, and any exception herein granted to growers from the provisions of this Act shall apply to strawberries produced by said grower as herein prescribed; the term "administrator" shall mean the Commissioner of Agriculture, Labor and Statistics; the term "retailer" shall mean a person operating an established place of business for the retail sale of merchandise, and shall not include peddlers.

§ 2. The standard grade or grades of strawberries grown in the Commonwealth of Kentucky when packed and offered for sale shall be as follows:

(a) "U. S. No. 1" shall be strawberries meeting the requirements of the U. S. Standard Grade No. 1 as defined by the U. S. Department of Agriculture;

(b) "U. S. No. 2" shall be strawberries meeting the requirements of U. S. Standard Grade No. 2 as defined by the U. S. Department of Agriculture.

(c) All strawberries except those graded under subsections (a) and (b) of this section may be offered for sale in an ungraded condition or graded according to individual standards, provided the term "Unclassified" is conspicuously marked on each crate or label used on each package.

Provided, that the foregoing standards for U. S. No. 1 and U. S. No. 2 strawberries and all tolerances, variations, definition of terms, marketing descriptions of packs and interpretations pertaining thereto shall be and remain in conformity with promulgations now issued, or which may hereafter be issued, by the Bureau of Agricultural Economics of

the U. S. Department of Agriculture or any other competent sub-division of the U. S. Department of Agriculture.

§ 3. Every package containing strawberries grown in the Commonwealth of Kentucky before the same shall be offered for sale shall be stamped with:

(a) The name and address of the packer or the person by whose authority the strawberries were packed;

(b) The brand, mark or grade as prescribed by this Act, which shall be in letters and figures of one-half inch or larger;

Provided, that a grower selling his strawberries directly to a consumer, or a grower selling his strawberries to a retailer for resale at retail, or a grower selling directly to a manufacturer for preserving, cold pack or quick freeze shall be exempt from the provisions of this Act.

§ 4. The duty of enforcing this Act and carrying out its provisions and requirements shall be vested in the Commissioner of Agriculture, Labor and Statistics, herein termed the administrator, or his agents, including the director of the division of marketing of the Department of Agriculture, Labor and Statistics and the employes thereof, and for that purpose he shall have the power and authority:

(a) To promulgate rules and regulations for the administration of this Act not inconsistent with the provisions of this Act, which rules and regulations shall have the force and effect of law;

(b) To investigate and certify to shippers and other interested persons the grade, quality or condition of strawberries in accordance with the standards established by this Act. The certificates issued by him or his agents pursuant to this Act shall be received in all counties of this state as prima facie evidence of the truth and statements contained therein. For this service the administrator may charge reasonable fees designed to cover the cost of the federal-state inspection service or other costs incurred in enforcing this Act, and

which fees may be re-expended by him for the purpose of enforcing this Act;

(c) To cooperate with the Secretary of the U. S. Department of Agriculture or any of his authorized agents or representatives or with other departments and persons in carrying out the provisions and the purposes of this Act.

§ 5. Every person who by themselves, their agents or employes violates any of the provisions of this Act shall for each offense be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not exceeding $25 for the first offense, not exceeding $50 for the second offense, not exceeding $100 for the third and each succeeding offense, and all costs for each and every offense.

§ 6. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict. The provisions of this Act are hereby declared to be severable, it being the intention of the General Assembly to enact each section separately, and if any of the sections, provisions, exceptions, or parts be held invalid for any cause, the remainder of this Act shall continue in full force and effect, it being the legislative intent, now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

§ 7. Whereas conditions existing in the strawberry growing industry in Kentucky have been demoralized because of the absence of regulations for grading, labeling and marketing of strawberries offered for sale, and legislation providing for such regulations is essential to stabilize the industry and promote the general welfare, and whereas the 1940 marketing season will have passed before this Act becomes effective under normal procedure, an emergency is hereby declared to exist and this Act shall take full force and effect from and after its passage and approval by the Governor.

By Mr. Savage

H. B. 181. AN ACT to repeal, amend and re-enact Section 2922 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, said Section being a part of Chapter 244 of the Acts of the 1893 General Assembly of Kentucky, and being Sections 162, 163 and 164 of said Chapter, and repealing all acts or parts of acts in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2922 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being a part of Chapter 244 of the Acts of the 1893 General Assembly of Kentucky and being Sections 162, 163 and 164 of said Chapter, is hereby repealed, amended and re-enacted, so that when re-enacted said Section shall read as follows:

Appeals shall be from the decisions of said court to the circuit court in all cases where the amount of the fine imposed is as much as twenty dollars ($20.00) or in all cases where any punishment by imprisonment is imposed. In all cases where a fine of twenty dollars ($20.00) or less is imposed and no punishment by imprisonment is imposed under an ordinance, the legality of said ordinance may be tested by the city by an appeal to the Jefferson Circuit Court or by the defendant by a writ of prohibition to the Jefferson Circuit Court, and after a decision has been rendered in the Circuit Court, as provided for in this Section, either the city or the accused may appeal to the Court of Appeals as other cases in the Circuit Court are appealed. In all cases in which the judgment prescribes imprisonment, the defendant may have an appeal to the Circuit Court and thence to the Court of Appeals except in cases in which bail has been required for good behavior and has not been given.

§ 2. All acts or parts of acts in conflict herewith are, to the extent of such conflict, hereby repealed.

By Mr. Vansant.

H. B. 182. An Act to repeal, amend and re-enact Section 3896, Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, vis.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 3896, Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted that said Statute shall read as follows:

Section 3896. The Court having jurisdiction shall grant administration to the relations of the deceased who apply for the same, preferring the surviving husband or wife, and then such others as are next entitled to distribution, or one or more of them whom the court shall judge will best manage the estate.

But in any instance where any relative or relatives entitled to distribution shall object in writting to the appointment of the person selected by Court, the Court shall then appoint such person or persons as may be designated by a majority of the relatives entitled to distribution.

At the time the Court makes such appointment the person appointed shall file with the Court his affidavit stating the date of death, the name of the decedent, a description and the approximate value of the estate so far as known to him, the names, ages and addresses of all legal heirs and such other information as the Court may require.

By Mr. Savage.

H. B. 183. AN ACT to amend and re-enact Section

592, Carroll's Kentucky Statutes, Baldwin's 1936 Revision providing for the publication by banks, corporations, partnerships, court receivers, fiduciaries, or individuals of statement of unclaimed deposits, dividends, interest, stocks, bonds, moneys on intangible personal property, and providing for penalties in violation thereof and the manner of enforcement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section five hundred and ninety-two (592) of Carroll's Kentucky Statutes, Baldwin's 1936 Revision be and the same is hereby amended and re-enacted to read as follows:—

(1) Every Bank, Corporation, Partnership, Court Receiver, Fiduciary, or individual doing business in this state, shall annually in January, have published in at least two issues of a newspaper, published in the county in which the bank, corporation, partnership, court receiver, fiduciary or individual is located, or if no newspaper is published in the county, then publication shall be in an adjoining county, a statement under oath of its cashier, president, partner or official or individual, of all deposits made with it, or held, and of all dividends declared and payable, and of all stocks, bonds, moneys, credits and of all intangible personal property in sums exceeding TEN DOLLARS IN VALUE, which at the date of such statement, shall have remained unclaimed by any person authorized to receive the same for five years or longer, giving the time when, and the name of the person by whom the deposit was made, the name of the person in whose favor the dividend or interest was declared, or the name of the person who appears to be entitled to stocks, bonds, moneys, credits or intangible personal property, and the last known address of the person entitled as shown on the records of the said bank, corporation, partnership, court receiver, fiduciary or individual.

(2) The failure of any bank, corporation, partnership, court receiver, fiduciary or individual to carry out the above provision shall be a misdemeanor, punishable by fine of not less than one hundred dollars nor more than five hundred dollars for each offense, and each day that said statement remains unpublished after the last day of January, shall constitute a separate and distinct offense. Suit shall be brought against any bank, corporation, partnership, court receiver, fiduciary or individual, who fails to comply with this statute, by the attorney general of this state, or if he refuse or does not bring suit within 60 days after the last day of January, then suit may be brought by any citizen of this state for the enforcement of this statute, and any citizen filing suit for the enforcement of this statute shall be paid ten per cent of the fines recovered from such suit.

By Mr. White.

H. B. 184. AN ACT fixing the penalty for disturbing religious worship, school and lawful assemblage, amending and re-enacting section 1267 of Carroll's Kentucky Statutes, 1936, edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. If any person shall willfully interrupt or disturb a congregation assembled for or engaged in worshiping God, or shall willfully interrupt or disturb any school, seminary or college, while the students of the same are engaged in their studies, or undergoing a public examination, or any assemblage of people met for and engaged in a lawful purpose, he shall be fined not less than five and more than one hundred dollars, or imprisoned in the county jail not more than twenty days, or both at the discretion of the jury.

By Same.

H. B. 185. AN ACT amending Section 1259, of Carroll's Kentucky Statutes 1936, edition providing penalty for hunting and fishing upon the lands of another without the consent of the owner.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That, any person who shall enter upon the lands of another for the purpose of shooting, hunting, or fishing, without the consent of the owner or occupant of said lands, shall be fined not less than five nor more than twenty-five dollars.

By Mr. J. Lee Moore.

H. B. 186. AN ACT amending Section 571, Kentucky Statutes, Carroll's 1936 Edition, relating to private corporations; providing for the filing and recording of a statement of process agent in the office of the Secretary of State; and fixing filing and recording fee for said service; providing penalties against corporations for failing to comply with the provisions of this Act, and appropriating sufficient money out of the general fund to carry out the provisions of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 571, Kentucky Statutes, Carroll's 1936 Edition, is amended to read as follows:

Section 571. All corporations except foreign insurance companies formed under the laws of this or any other State,

and carrying on any business in this State, shall at all times have one or more known places of business in this State, and an authorized agent thereat, upon whom process can be served. No corporation shall carry on any business in this State until it has filed in the office of the Secretary of State a statement, signed by its president or secretary, giving the location of its office or offices in this State, and the name or names of its agent thereat, upon whom process can be served. When any change is made in the location of its office or offices, or in its agent, it shall at once file with the Secretary of State a statement of the change, and the former agent shall remain agent for the purpose of service until statement of appointment of the new agent is filed. If any corporation fails to comply with the requirements of this section, the corporation, and any agent or employee of the corporation, who transacts or carries on or conducts any business in this State, for it, shall be fined not less than one hundred nor more than one thousand dollars for each offense.

The Secretary of State shall charge a fee of five dollars for the filing and recording of each statement designating an agent, and for filing and recording each statement of change of agent or location of office.

§ 2. All revenue received under Section 571, Kentucky Statutes, not in excess of twelve thousand dollars per annum for the fiscal years ending June 30, 1940, June 30, 1941, and June 30, 1942, shall be credited to a revolving fund set up by the Department of Finance, to be used by the Secretary of State for books, supplies, postage, equipment, personnel and necessary expenses for the enforcement of Section 571 of the Kentucky Statutes, and all expenditures from this account shall be approved by the Commisioner of Finance as provided by law.

§ 3. There is hereby made a special emergency appropriation out of the General Fund for the initial expense of the Secretary of State in enforcing the provisions of Section

571 of the Kentucky Statutes for the period from the effective date of theis Act to June 30, 1940, in the sum of four thousand dollars.

§ 4. WHEREAS, it appears from the records in the office of the Secretary of State that many corporations have not complied with the provisions of this Act in naming and designating a process agent, and

WHEREAS, additional personnel, books, postage, supplies and equipment will be required to search the records in the office of the Secretary of State to ascertain the names of the corporations that have not complied with this Act, and to bring about a compliance with the provisions thereof, and

WHEREAS, no fee for this additional service has heretofore been provided by law and additional funds are necessary to enable the Secretary of State to perform the additional duties required of him by this Act, and no additional funds have been appropriated to enable him to perform his duties under the provisions of this Act, an emergency is hereby declared to exist, and this Act shall take effect immediately upon its adoption by the General Assembly of the Commonwealth of Kentucky and its approval by the Governor.

By Same.

H. B. 187. AN ACT relating to private corporations; providing for the filing and recording of their articles of incorporation and amendments thereto in the office of the Secretary of State; fixing filing and recording fees for said service; authorizing copies of said records under the certificate and seal of the Secretary of State to be used as evidence in the Courts of Kentucky; fixing a fee for furnishing copies of said records; requiring foreign corporations to file lists of stockholders and bondholders; providing penalties against corporations for failing to comply with the pro-

visions of this Act; and appropriating sufficient money to carry out the provisions of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 540, Kentucky Statutes, Carroll's 1936 Edition, is amended to read as follows:

Section 540. (1) The articles of domestic corporations, and amendments thereto, shall be signed and acknowledged by the parties before any officer authorized to take acknowledgments of deeds and recorded in County Clerk's office of the county in which its principal office or place of business is to be located, and a copy thereof filed and recorded in the office of the Secretary of State. The corporation shall pay to the Secretary of State a fee of twenty-five cents for each one hundred words for recording the articles of incorporation or amendments thereto.

(2) Corporations formed under the laws of any other state, which corporations are now, or shall hereafter be authorized to, carry on or do business in this State, shall file a certified copy of their articles of incorporation and all existing and subsequent admendments thereto in the office of the Secretary of State, and shall annually report to the Department of Revenue lists of its stockholders and bondholders at the same time, and in the same manner required of domestic corporations by Section 4019a-10, and with same limitations. Non-resident corporations now authorized to do business, and any non-resident corporation not now authorized to do business in this State shall pay to the Secretary of State a filing fee of twenty-five dollars, which fee shall be collected from a non-resident corporation only one time, and in addition thereto twenty-five cents for each one-hundred words for recording the articles of incorporation or any

amendment thereto that may now or may hereafter be recorded in said office.

(3) A copy of the record of any article of incorporation and all amendments thereto of both domestic and foreign corporations in the office of the Secretary of State under the certificate and seal of the said office shall be accepted as evidence in all the courts of this State for all purposes in any action at law or equity that the original articles of incorporation and amendments thereto could be used. For furnishing a certified copy of the record to any party, the Secretary of State shall charge the same fee that is allowed herein to be charged for the recordation of said instrument.

(4) Non-resident corporations now doing business in this State shall pay the fee prescribed by this section and file certified copies of their articles of incorporation and amendments thereto with the Secretary of State on or before July 1, 1940, and any corporation failing to do so shall cease to do business in this State after that date, and their right to do business in this State shall be automatically cancelled, but the time within which the articles and amendments must be filed may be extended by the Secretary of State for a period not exceeding six months.

(5) Any non-resident or domestic corporation undertaking to do business in this State without complying with this section shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars.

§ 2. All revenue received under Section 540 of the Kentucky Statutes, not in excess of fifteen thousand dollars per year for the years ending June 30, 1940, June 30, 1941, and June 30, 1942, shall be credited to a revolving fund set up by the Department of Finance, to be used by the Secretary of State for supplies, books, postage, equipment, personnel and necessary expenses to enforce section 540 of the Kentucky Statutes, and all expenditures from this account shall be approved by the Commissioner of Finance as provided by law.

§ 3. There is hereby made a special emergency appropriation out of the General Fund for the initial expenses of the Secretary of State in enforcing the provisions of Section 540 of the Kentucky Statutes, for the period from the effective date of this Act to June 30, 1940, the sum of five thousand dollars.

§ 4. WHEREAS, domestic corporations are required by the provisions of Section 4225, Kentucky Statutes, Carroll's 1936 Edition, to pay into the State Treasury a tax of one-tenth of one per cent upon the amount of the capital stock which such corporations are authorized to issue and a like tax upon any subsequent increase thereof, and

WHEREAS, no similar tax is required of foreign corporations, the fee of twenty-five dollars herein required of foreign corporations for filing their articles of incorporation, and the fee for recording said articles and amendments thereto against both domestic and foreign corporations, are necessary to enable the Secretary of State to perform the additional duties required of him by this Act, and sufficient funds have not been appropriated to enable him to perform the duties required of his office under the provisions of this Act, an emergency is hereby declared to exist, and this Act shall take effect immediately upon its adoption by the General Assembly of the Commonwealth of Kentucky and its approval by the Governor.

By Mr. Waterfield.

H. B. 188. AN ACT relating to county budgets, amending section 1 of chapter 26 of the Acts of the 1938, compiled as section 1851c-5 of Baldwin's Kentucky Statutes Service, May, 1938, and repealing section 1851c-5 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of chapter 26 of the Acts of 1938, compiled as section 1851c-5 of Baldwin's Kentucky Statutes Service, May, 1938, is amended to read as follows:

1851c-5. All proposed county budgets, adopted by the county budget commission and approved by the Commissioner of Finance as to form and classification shall be submitted to the fiscal court at the time fixed for the adoption of the county levy and budget for approval or rejection and not later than July first of each year. The county budget commission shall post or cause to be posted in a conspicuous place in the courthouse near the front door a complete and itemized copy of the proposed budget for at least ten days preceding the time of final approval by the fiscal court, and also have the copy published for at least ten days before final approval, in the newspaper of largest general bona fide circulation published in the county.

If the fiscal court rejects any part of the proposed budget, the fiscal court itself shall make such changes in the nature and amount of funds as it sees fit; but the fiscal court shall not make any change in the form or classification of the budget units or sub-divisions thereof as approved by the Commissioner of Finance.

Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final approval.

§ 2. Section 1851c-5 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

By Mr. Walters.

H. B. 189. AN ACT to define oleomargarine and to prescribe regulations to govern the manufacture, storage and sale thereof; to provide for the issuance of license to the

manufacturers and vendors thereof in payment of fees therefor, and for the revocation of such license for violating the Act; to provide a privilege tax on sales of oleomargarine; to provide for the enforcement of the provisions of this Act by the Department of Revenue; and providing penalties for the violation of this Act, and authorizing the Department of Revenue to make rules and regulations carry the Act into effect, and repealing all laws, or parts of laws, in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

ARTICLE I. The term "Person", as used in this Act, shall include individuals, firms, partnerships, associations and corporations, both foreign and domestic.

ARTICLE II. For the purpose of this Act, certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as Oleomargarine, namely, All substances heretofore known as oleomargarine, ole, olemargarine oil, butterine, lardine, suine and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil fish, fish oil, palm oil, vegetable oil, annetto and other coloring matter, intestinal fat and offal fat,—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified or mixed in cream, milk, water or other liquid, and containing moisture in excess of one per centum, or salt in any quantity whatsoever. This section shall not apply (1) to puff pastry, shortening not churned or emulsified in milk or cream, and having a melting point of 118 degrees Fahrenheit or more, nor (2) to any of the following containing condiments and spices: Salad dressings, mayonnaise dressing or mayonnaise products, nor (3) to pharmaceutical preparations.

ARTICLE III. Every person desiring to manufacture, sell or offer for sale, or have in possession with intent to sell oleomargarine as defined in Article II of this Act, shall make application for license to do so, which shall be in such form as shall be prescribed by the Department of Revenue, or its agents. Said application shall be furnished by the Department of Revenue in such form with such information thereon as may be deemed necessary or expedient for the fulfillment of the provisions of this Act. Such application shall contain an accurate description of the place where the proposed business is intended to be carried on, the name, style of firm and such other information as may be prescribed to conduct the said business. Such licenses shall be furnished to the person applying and the Department of Revenue shall issue such licenses, properly signed and certified to, charging the following fees:

Manufacturer's license	$5.00
Jobber's license	3.00
Retail Merchant's license	2.00

Said license to be paid for the period of one year, but all of said licenses shall expire with the end of the calendar year; after obtaining the license required by this Article, the person obtaining the same shall, before beginning any business granted under the said license, display, in a conspicuous place, on the walls of the room, store or factory in which oleomargarine is offered or exposed for sale the license so obtained.

ARTICLE IV. The Department of Revenue shall have authority to revoke any license issued under this Act, because of the failure of any licensee to observe the provisions of this Act, or because any licensee's place of business is in an unduly unsanitary condition; provided, however, that five days' written notice, specifying the complaint, must be given the licensee to appear before the Department of Revenue and show cause why such license should not be revoked. If

after the revocation of such license, the licensee should comply with the requirements of the law and make manifest in writing his intention to observe the law in the future, the Department of Revenue may issue to such licensee another license upon their paying the fee required therefor.

ARTICLE V. No person shall use in any way in connection or association with the sale or exposure for sale, or advertisement of oleomargarine as defined in Article II of this Act, the words "butterine", "creamery" or "dairy", or the representation of a cow of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols, or combinations thereof, commonly used by the dairy industry.

ARTICLE VI. There is hereby levied a tax to the amount of five (5c) cents per pound on all oleomargarine sold in the State as defined in Article II of this Act, such tax to be in the form of a stamp in such denominations as will best carry out the provisions of this article. Said stamps shall be properly safeguarded as to their manufacture, preservation and distribution, and shall be in the custody of the Department of Revenue, provided further that the affixing and cancellation of said stamps shall be directed by the Department of Revenue.

ARTICLE VII. No state, county, municipal or other institution supported in whole or in part by public funds, shall furnish to its inmates, patrons, or employees, or use in the preparation of their food any oleomargarine or similar substitutes for butter as defined in Article II of this Act.

ARTICLE VIII. All revenue and fees collected by the Department of Revenue under the provisions of this Act, shall be paid into the State Treasury to the credit of the general fund.

ARTICLE IX. To facilitate the inspection of oleomargarine as prescribed in this Act, all manufacturers, jobbers, and wholesalers making shipments into or within the

State are hereby required to forward to the Department of Revenue on forms to be furnished by the said Department of Revenue and on date of shipment, notification of the amount of such oleomargarine, together with the car number and/or transportation company, the name and address of the consignees, together with the brand or brands making up such shipment.

ARTICLE X. The Department of Revenue is hereby empowered to promulgate such rules and regulations as are consistent with the provisions of this Act, provided, however, that when requested by any person interested, the Department of Revenue shall furnish copies of all proposed rules and regulations at least ten (10) days before such rules and regulations become effective so that the person may be heard thereon.

ARTICLE XI. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof, for the first offense shall be fined not less than ten dollars ($10.00), nor more than fifty dollars ($50.00), and for such subsequent offense, shall be fined not less than twenty-five dollars ($25.00) or be imprisoned in the county jail for not more than twelve months, nor less than sixty days, or shall suffer both fine and imprisonment.

ARTICLE XII. If any section, subsection, clause, provision, or portion of this Act shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not effect any other section, subsection, clause or provision of this Act.

ARTICLE XIII. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

By Mr. Vance.

H. B. 190. AN ACT relating to the manufacture, transportation and sale of distilled spirits in this commonwealth;

providing for the manufacture, transportation and sale of distilled spirits in lieu of tax paid distilled spirits accidentally destroyed by fire, which may have been or may hereafter be manufactured under the provisions of Section 4214a-13, Kentucky Statutes, Carroll's 1936 Edition, and providing for the issual of duplicate tax free permits for such manufacture, transportation and sale, and repealing all conflicting laws.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That in the event distilled spirits have heretofore been manufactured under the provisions of Section 4214a-13, of the Kentucky Statutes, Carroll's 1936 Edition, same being Section 2, Chapter 149 of the Acts of the General Assembly of 1934, or may hereafter be manufactured under the provisions of said Section, or any amendment thereto, and the taxes imposed by said Section paid, and said distilled spirits manufactured heretofore or hereafter, shall have been or shall hereafter be, destroyed by accidental fire, through no fault of the owner thereof, duplicate permits shall be issued to the person who had manufactured said distilled spirits and paid the tax thereon, for the privilege of manufacturing, transporting and selling other distilled spirits in lieu thereof, and no tax shall be imposed or collected for the privilege of manufacturing, transporting and selling an equal amount of such distilled spirits, provided the distilled spirits so destroyed were destroyed prior to the sale of such spirits by the actual manufacturer thereof and prior to the exportation of said spirits from the Commonwealth of Kentucky, and while said spirits were still stored on the premises where manufactured, or in warehouses adjacent thereto.

The person desiring to manufacture distilled spirits in lieu of tax-paid distilled spirits destroyed as set out above shall apply to the Tax Commission, or other proper State Agency for the issual of duplicate permits and the Tax Com-

mission, or other State Agency in charge of issuing permits shall at once issue duplicate permits to the owner of the distilled spirits so destroyed for the same number of gallons as were destroyed by fire as set out above. There shall be no charge for the issual of said permits, but the manufacturer making such application shall furnish definite proof;

(a) That the distilled spirits so destroyed were tax-paid under the provisions of Sec. 4214a-13 of the Kentucky Statutes, 1936 Edition, or said Section as amended;

(b) That the distilled spirits so destroyed had not been sold by the manufacturer thereof prior to the time of destruction;

(c) That said spirits were still stored on the premises where manufactured, or immediately adjacent to the premises where manufactured;

(d) The number of proof gallons destroyed;

(e) The cause of said destruction and that said destruction was accidental and not the fault of the owner thereof.

Provided that the Tax Commission, or other State Agency may accept the same proof of loss as that furnished to the United States Government under similar circumstances.

§ 2. It is hereby declared to be and to have been the Legislative intent to allow and to have allowed Kentucky manufacturers of distilled spirits to place upon the market one proof-gallon of distilled spirits, less shrinkage and leakage, for each such gallon tax-paid under the provisions of Section 4214a-13 Kentucky Statutes, Carroll's 1936 Edition, and to allow said Kentucky manufacturers of distilled spirits the same privileges under the Kentucky law which they now have and heretofore have had under the Federal law relating to accidental destruction of such spirits by fire.

§ 3. All laws or parts of law in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Perkins.

H. B. 191. An Act to amend section 273 of Carroll's Criminal Code of Practice, 1938 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 273 of Carroll's Criminal Code of Practice, 1938 edition, is amended to read as follows:

Application for a new trial must be made by the defendant *and ruled on by the trial court* at the same term at which the verdict is rendered. *If the application is not ruled on at the same term, it shall stand denied as a matter of law.*

§ 2. Since this amendment is intended to increase the speed of criminal trials, and prevent undue delay in the administration of justice, an emergency is declared to exist, and this Act shall take effect immediately upon its passage and approval by the Governor.

By Mr. Hunt.

H. B. 192. An Act to protect laborers and miners and for labor performed in developing and working in coal mines.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That every laborer or miner who shall perform labor in opening and developing any coal mine, including sinking shafts, constructing slopes or drifts, mining coal and the like, shall have a lien, upon all the property of the person, firm or corporation, owning, constructing or operating such mine, used in the constructing or operation thereof, including real estate, buildings, engines, cars, mules, scales, and all

other personal property, for the value of such labor for the full amount thereof, upon the same terms, with the same rights and to be secured and enforced as mechanics' liens are secured and enforced.

By Mr. Neikirk.

H. B. 193. AN ACT relating to the deposit of securities by Domestic Life Insurance Companies for the protection of the policy holders therein: prescribing the amount of such required deposits, how and where made: providing for withdrawals of excess deposits: providing for the appointment of a Deputy Director of the Division of Insurance as custodian of such securities: providing for the payment of the salary of said Director and for the payment of other necessary expenses incident to carrying out the provisions of this Act: providing for the payment by the companies affected of sums necessary to carry out said provisions, and repealing all conflicting laws.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Within ninety days after the net cash value of each policy in force shall be ascertained, as now required by law, every Domestic Life Insurance Company shall deposit for the security and benefit of its policyholders, with a Deputy Director of the Division of Insurance, appointed in the manner hereinafter set forth, securities in which Domestic Life Insurance Companies may legally invest their funds, in an amount which together with such sums as may be deposited by said companies with other states and governments by the requirements of the law thereof, shall be not less than the ascertained valuation of all policies in force, less any sums which any Domestic Life Insurance Company shall have ad-

vanced from its legal reserve to the policyholders of the company, on the pledge to it of their policies and any accumulations thereon.

Provided, however, that if the legal reserve or the aggregate ascertained valuation of all policies in force in any Domestic Life Insurance Company shall equal TWENTY MILLION ($20,000,000.00) DOLLARS, then no further depost shall be required of such company so long as said legal reserve shall remain at or above TWENTY MILLION ($20,000,000.00) DOLLARS, unless said company shall elect to represent on its policies or otherwise that the legal reserve or cash value of its policies thereafter written, is on deposit with the Commonwealth of Kentucky, or one or more of its designated agencies, in which event such company shall deposit securities as above set out in an amount equal to the ascertained valuation of all of its policies in force at the time such representation is made.

Provided, further, that no company shall be required to make the deposit herein required until the net cash value of the policies in force exceeds the amount deposited with the State under the provisions of Kentucky Statutes, Section 648, and then only to the extent of such excess.

§ 2. Every Domestic Life Insurance Company shall have the right at any time to change its securities on deposit by substituting for those withdrawn, a like amount in other securities of the character which may be deposited according to law, and whenever the value of the securities on deposit with the Division of Insurance shall exceed the minimum amount required to be kept on deposit by Section 1 hereof, then any company having such excess on deposit may withdraw such excess deposit.

§ 3. The Director of the Division of Insurance or the Deputy Director mentioned herein shall keep a complete record showing the kind of property or securities deposited by each Insurance Company, the face value thereof, the value

as determined by the Director of the Division of Insurance, the date and where deposited and when withdrawn in the manner prescribed by the Director of the Division of Insurance, and the name and address of the persons and company delivering such securities for deposit, the date and amount of securities withdrawn by permission of the Director of the Division of Insurance, and the name of the company making such withdrawal, the names and address of the persons to whom such securities were delivered, and such further information and records as the Director of the Division of Insurance may deem necessary.

§ 4. The Deputy Director of the Division of Insurance in charge of the securities provided for herein, shall be appointed by the Governor in accordance with the laws governing other Executive appointments, and shall receive a salary of TWO HUNDRED ($200.00) DOLLARS per month, payable as other State salaries, but out of the funds contributed for that purpose by the Insurance Companies affected by this Act in the manner hereinafter set out. Such Deputy Director of the Division of Insurance shall give to the Commonwealth of Kentucky, for its benefit and for the use and benefit of any Insurance Company, creditor or policyholders thereof, a security bond in the penal sum of ONE HUNDRED THOUSAND ($100,000.00) DOLLARS, conditioned for the faithful performance of the duties of his office and for his official acts in receiving deposits or delivering securities under the provisions of this Act. The form of the above bond shall be approved by the Attorney General of the Commonwealth and the premiums thereof shall be paid from the same funds from which the Deputy Director's salary is paid.

§ 5. The Director of the Division of Insurance shall designate not less than one nor more than three good and solvent Banks or Trust Companies, located in every county containing a City of the First class, whose vaults shall be used as depositories for the securities mentoned herein; and none of

the securities or properties thus deposited shall be removed from said vault or vaults except upon the written order of at least two representatives of the company owning the securities or properties, which said representatives shall be authorized by the Board of Directors of said company, and which written order shall be approved by the Director of the Division of Insurance; and the vault or vaults or other receptacles in which said securities are deposited shall only be opened and securities deposited or withdrawn, in the joint presence of the Deputy Director of the Division of Insurance, and two authorized representatives of the company owning the securities, which said representatives shall be authorized by the Board of Directors of said Company.

Provided, however, that such vaults or receptacles may be reopened and the securities withdrawn under the direction and upon the order of any court of competent jurisdiction.

§ 6. Each and every Insurance Company depositing securities or properties or other evidences of indebtedness or ownership of property under the provisions of this Act, shall, at its own expense, rent adequate space in the vaults of the Banks or Trust Companies selected by the Director of the Division of Insurance to deposit such company's properties, securities or evidences of indebtedness.

§ 7. The Deputy Director of the Division of Insurance shall be available at all reasonable times in the branch office of the Division of Insurance maintained in the City of the first class.

§ 8. The Domestic Life Insurance Companies affected by this Act shall, for the purposes of paying the necessary expenses for carrying out the provisions thereof, including the salary of the Deputy Director and the premiums on his bond, pay to the Director of the Division of Insurance in the aggregate each month, the sum of THREE HUNDRED ($300.00) DOLLARS, which sum shall be allocated among the Companies affected by said Act as follows:

Each company coming under the provisions of said Act shall pay to the Director of the Division of Insurance monthly, the sum of TWENTY-FIVE ($25.00) DOLLARS. Should such payments not aggregate THREE HUNDRED ($300.00) DOLLARS, then the amount necessary to bring said total payments to THREE HUNDRED ($300.00) DOLLARS, shall be paid by said companies in the proportion in which each Company's deposit bears to the total deposited by all the Companies. The money thus paid in to the Director of the Division of Insurance shall be by him deposited in the State Treasury and shall be used by him, first in paying the salary of the Deputy Director of Insurance and the premiums on his bond, and the balance shall be used in paying other necessary expenses incident to maintaining an office in any county of the Commonwealth containing a city of the first class. Provided, however, that the total gross expenses of said office shall not exceed THREE THOUSAND SIX HUNDRED ($3,600.00) DOLLARS per year, and providing further that the total gross contributions of the companies affected hereby including the TWENTY-FIVE ($25.00) DOLLAR monthly assessments, shall not exceed THIRTY SIX HUNDRED ($3,600.00) DOLLARS per year.

§ 9. The Director of the Division of Insurance shall have the authority at any time to cause an inventory to be made of the securities on deposit in any designated depository, and any company depositing securities under the provisions of this Act, shall have the right to request the Director of Insurance to cause such inventory to be made, and upon the receipt by the Director of Insurance of such request, it shall be his duty to forthwith cause an inventory to be made at the expense of, and for the benefit of, the depositing company so requesting. Any such inventory must be made in the presence of a designated representative of the Division of Insurance, and two representatives of the Company owning the securities, which said representatives shall be so authorized by the Board of Directors of said Company.

§ 10. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. Hunt.

H. B. 194. AN ACT to protect the lives of coal miners, amending and re-enacting Section 37 of Article 22 of the Acts of the General Assembly of 1934.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

It shall be unlawful for the superintendent or mine manager to permit any blasting or exploding of shots or do any firing whatsoever with black powder, monabell, or any other permissible, while mines are in operation, or until each and every miner and employee is out of the mine, except the shot firers, mine superintendent, mine manager, mine examiner and men necessarily engaged in charge of pumps. Provided, however, that nothing in this section shall be construed to prohibit the employment in such mines of a reasonably necessary number of men during such time for the purpose of securing the workings in case of fire.

By Mr. Wagner.

H. B. 195. AN ACT to amend Chapter 6 of the Acts of 1936, third extra session of the General Assembly of the Commonwealth of Kentucky, being an Act relating to revenue and taxation of gasoline, and particularly section 9 thereof, entitled "reports required on gasoline received" and being section 4281g-8 of the Carroll's Kentucky Statutes, Baldwin's 1936 revision, by adding to sub-section c of said section 9, the following, to-wit: (2) sold to any municipality of this Commonwealth for municipal purposes.

Said bill as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 6, Section 9 of the Acts of 1936, Third Extra Session of the General Assembly of the Commonwealth of Kentucky, and being Section 4281g-8, Carroll's Kentucky Statutes, 1936 Baldwin's Revision, be amended so that said section as amended shall hereafter read as follows:

Reports required on gasoline received.—Every dealer or the treasurer or other proper officer or agent of every dealer shall on or before the last day of each month transmit to the Department a statement under oath or affirmation on such forms as the Department may prescribe of the total number of gallons of gasoline received as the term "received" is hereinbefore defined in the State of Kentucky during the next preceding calendar month and the statement shall include the following information.

a. An itemized statement of the number of gallons of all gasoline received during the next preceding calendar month by such dealer, which has been produced, refined, manufactured or compounded by such dealer in the State of Kentucky.

b. An itemized statement of the number of gallons of all gasoline received by such dealer in the State of Kentucky from any source whatsoever during the next preceding calendar month as shown by shippers' invoices thereof, other than the gasoline falling within the provisions of (a) above, together with a statement showing the date of receipt of such gasoline, the name of the person from whom purchased, the date of receipt of each shipment of gasoline, the point of origin and the point of destination, the quantity of each of said purchases or shipment, the name of the carrier, the initials and number of each tank car, date of receipt and the number of gallons contained in each car if shipped by rail

or the name and owner of the boat, ship, truck, transport, barge or vessel if shipped by water.

c. An itemized statement of the number of gallons of received gasoline, if any, which such dealer has during the preceding calendar month:

(1) Sold to the United States Government or any of its agencies.

(2) Sold to any municipality of this Commonwealth for municipal purposes.

(3) Sold for delivery in Kentucky in transport truck, tank car or cargo lots to licensed bonded dealers. Statement shall give a record of all such transport truck, tank car or cargo sales of gasoline, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck, if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein, if shipped by water, and shall set forth the name of the person to whom sold, point of shipment and point of delivery.

(4) Lost through accountable losses which have been reported and approved in writing by the Department as provided in Section 2-g of this Act.

(5) Exported or sold for export from the State of Kentucky to any other State or to any foreign country.

d. Such other information as may be required by the Department.

By same.

H. B. 196. AN ACT to amend chapter 6 of the Acts of 1936, third extra session of the General Assembly of the Commonwealth of Kentucky, being an Act relating to revenue and taxation of gasoline, and particularly section 11 thereof, entitled "computation and payment of tax" and being section

4281g-10 of the Carroll's Kentucky Statutes, Baldwin's 1936 revision, by adding to paragraph (1) thereof item (5), as contained in section 9, paragraph (c) of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 6, Section 11 of the Acts of 1936, Third Extra Session of the General Assembly of the Commonwealth of Kentucky, and being Section 4281g-10, Carroll's Kentucky Statutes, 1936 Baldwin's Revision, be amended so that said section as amended shall hereafter read as follows:

Computation and payment of tax.—a. From the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, the following deductions shall be made;

(1) The total number of gallons of gasoline received by the dealer within the State of Kentucky and sold or otherwise disposed of during the next preceding calendar month as set forth in Section 9, paragraph (c), items (1)-(2)-(3)-(4) and (5) of this Act.

(2) That number of gallons of gasoline which shall be equal to two and one-fourth (2¼%) per cent of the total number of gallons of gasoline received by the dealer within the State of Kentucky during the next preceding calendar month, less the total number of gallons deducted under sub-paragraph (1) next preceding; this deduction being allowed to cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, handling and reporting the tax.

b. The tax at the rate of five cents (5c) per gallon of gasoline shall be computed on the number of gallons remaining after the deductions hereinabove set forth have been made and shall constitute the amount of gasoline tax payable for the next preceding calendar month.

Reports required in Section 8 shall be accompanied by a certified or cashier's check, payable to the State Treasurer of Kentucky for the amount of tax due for such preceding calendar month.

By Mr. Moebus.

H. B. 197. AN ACT relative to police and firemen in cities of the fourth class; providing for their appointment and dismissal from office; defining fire departments; providing for the examination and qualification of members of the police and fire departments; providing for the adoption of rules and regulations governing their conduct in office; providing for the appointment of civil service examiners and their duties; providing for primary suspension and trial of such members before the Mayor and Board of Council; providing for appeal to circuit court; providing for a Board of Trustees of Police and Firemen's Pension Fund; providing for the levying and apportionment of a tax therefor, not to exceed one cent on each one hundred dollars valuation of taxable property and repealing all Acts or parts of Acts in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. In any city of the fourth class, in which there is now, or may hereafter be established a regular fire department and/or police department, the city, the firemen and/or policemen forming such departments shall be governed by the following provisions concerning the appointment, continuance and dismissal of firemen and/or policemen.

§ 2. For the purpose of this Act a regular fire department is defined as one having a fixed headquarters where fire fighting apparatus and equipment is maintained and

where a fireman or firemen are in constant and uninterrupted attendance to receive and answer fire alarms.

§ 3. The governing authorities shall receive all applicants for appointment as members of the police and/or fire department to be examined as to their qualifications to fill the office of policemen and/or firemen, and as to their knowledge of the English language and as to the law and rules governing the duties of policemen and/or firemen. Every member of the police and/or fire department shall be a qualified voter of the city in which appointed and be able to read and write and understand the English language and to have such other general qualifications as may be prescribed.

No person shall be appointed a member of the police and/or fire department unless he is well known to be a man of sobriety and integrity and has been, and is, an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police and/or fire department on account of any political partisan service rendered by him, or on account of political sentiments or affiliations, or who is over forty (40) years of age. No member of said police and/or fire department shall be removed or discharged or reduced in grade or in pay, for any political partisan opinion. The appointment and continuance upon the police and/or fire department shall depend solely upon the ability and willingness of a person to comply with the rules of said department, and to perform the duties of said department. No appointment to or continuance as a member of a police and/or fire department shall be as a reward for political activity, or be obtained by political service or contribution to campaign funds, nor shall any member of said department pay or collect any assessments made by political organizations, or contribute to political campaign funds or be unduly active in politics, or work for the election of candidates for office. The examination and qualification provided for in this act shall not apply to the

members of the regular police and/or fire department at this time who have been continuously in said service for a period of three (3) years. Members of police and/or fire departments otherwise qualified under this law shall hold their positions during good behavior provided, however, that the provisions of this act shall not prevent the city from decreasing the number of policemen and/or firemen as may be deemed proper from time to time, and providing further, that in the event the city decreases the number of policemen and/or firemen the youngest members in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

§ 4. Wherever in this act the term City Board is employed, it shall be construed to mean the legislative branch of the city government.

§ 5. The Mayor, by and with the approval of the city board, shall appoint three citizens who have been taxpayers and voters of the city for five (5) years previous to their appointment, and who shall be not less than twenty-four (24) years of age, to serve as Civil Service Examiners. The terms of the first examiners to be appointed shall expire upon the first Monday in January in the years 1941, 1942, and 1943, respectively and the orders appointing the first examiners shall state upon which of said dates the term of each examiner shall expire. Every year thereafter, as the terms of the first examiners shall expire, respectively, there shall be one examiner appointed for a term of three years. Vacancies shall be filled in the same manner as appointments of said examiners are made, providing that any person appointed to fill a vacancy shall serve only to the end of the term of the examiner whose office was vacated. Said examiners shall elect one of their members as chairman and one as secretary of the Civil Service Examiners. Each of said

examiners shall qualify by taking oath prescribed by the Constitution of Kentucky, and shall serve without pay.

§ 6. Said Civil Service Examiners shall conduct an examination of persons for appointment to the police and/or fire department each time a vacancy shall occur in said department. The Mayor shall notify the examiners each time a vacancy occurs in the said department and the said examiners shall, within the two weeks following the receipt of such notice, hold an examination for persons seeking appointment to said department, after filing notice at least five days prior to the holding of said examination in some newspaper of general circulation in the city. Within one week following the holding of said examination, said examiners shall certify to the city board the names of the three persons receiving the highest grades. The city board may appoint any one of said three persons to said department. Providing, however, that in the event a vacancy thereafter occurs in said department, in addition thereto of regular or substitute firemen and/or policemen are made, within one year following the certification of said names, the city board shall fill said vacancy or make such addition from the list of names thus certified. The Civil Service Examiners shall make such rules and regulations for the conduct of examiners as they shall deem necessary, but such rules and regulations shall not become effective until approved by the city board.

§ 7. No member of the police and/or fire department shall be removed from the department, or reduced in grade, upon any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted for the department, or for inability to perform his duties. Any person may prefer charges against a member of the police and/or fire department, which must be filed in the office of the Mayor, who shall thereupon communicate said charges without delay to the members of the city board. Said charges must be written, signed by the person making said charges, and must set

out with clearness and distinctness each and every charge. It shall also be the duty of the Mayor and each member of the city board, whenever probable cause appears, to prefer charges against any member of the police and/or fire department, who he believes to have been guilty of any conduct justifying his removal or punishment, in the interest of public order or protection. The charges thus filed shall be written, and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issues so presented and to no others. All charges against members of the police and/or fire department shall be filed with the clerk of the city board, and within three days after said filing, the city board shall proceed to hear and examine said charges; provided two days before said hearing the member of the police and/or fire department accused has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three days after said charges are filed with the clerk of said board. The city board will have the power to summon and compel the attendance of witnesses at all hearings or sittings, by said board upon subpoena issued by the clerk of said board, and served upon said witnesses by any officer authorized to serve subpoenas from any court of justice in the county, and said board shall have the power of a justice of the peace to punish for contempt. The member of the police and/or fire department accused shall have the right to have subpoenaed in his behalf any witness he may desire, upon furnishing their names and addresses to the clerk of said board, and the action and decision of said board on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose, and the written

charges filed in the matter shall be preserved and securely attached to the book containing the board's decision.

In cases where the Mayor has probable cause to believe that a member of the police and/or fire department has been guilty of any conduct justifying removal or punishment, he may suspend said member from duty, or from pay and duty, pending said trial, and said member shall not be placed on duty, or allowed pay thereafter, until the charges are heard by the city board. The said board shall fix punishment against a member of the police and/or fire department found guilty of any charge under this act by a reprimand or suspension for any length of time in their judgment not to exceed six (6) months or by reducing the grade, if the accused be chief or other officer, or by combining any two or more of said punishments, or by removal or dismissal from the service of any such member of the police and/or fire department. No member of the police and/or fire department, except as provided in this act, shall be reprimanded, removed, suspended or dismissed from the department until written charges have been made or preferred against him, and a trial had as herein provided.

§ 8. Any member of the police and/or fire department who shall be found guilty by the city board of any charge as hereinbefore provided, shall have the right to appeal to the circuit court of the county in which said city may be located, provided the punishment be a suspension of more than thirty days, or a reduction in grade or a removal or dismissal from the police and/or fire department, but the enforcement of the judgment of said board under such charges shall not be suspended pending said appeal, nor shall such judgment be superseded. Upon the request of the party accused, and upon payment of all legal fees, costs and charges, the clerk of said board shall file a certified copy of the charges made, the transcript of testimony, and the judgment or finding of the said board in the circuit court, and same having been filed,

the cause shall be docketed in the circuit court and tried as if on appeal by the judge on questions of law and fact only, and no new evidence shall be presented other than that contained in said transcript of the evidence. Should the clerk of said board fail to certify and transmit the transcript and papers and proceeding aforesaid to the circuit court within five days after the request is made for same, and payment of all legal fees, costs and charges have been made, then the party aggrieved may, by summary proceeding in the circuit court, compel the filing of same.

Such appeal shall have precedence over other business, and be taken up and determined speedily. An appeal will lie from the judgment of the circuit court to the Court of Appeals, as in other cases, provided the punishment fixed by the board be suspension for more than sixty days, reduction in grade, or removal or dismissal from the department.

§ 9. There shall be organized in connection with said police and/or fire department a board to be known as the Board of Trustees of the policemen's and/or firemen's Pension Fund, which shall be composed of the Mayor of the city, City Treasurer, and Police and/or Fire Chief, and said board shall select from their number a president and a secretary. The City Treasurer shall be ex-officio treasurer of said board and custodian of its funds.

§ 10. There shall be levied and set apart in each year by the city board a tax, which tax shall be for a sum certain and definite, not less, however, than one (1c) cent on each one hundred ($100.00) dollars in value of taxable property in the said cities for the year in which said tax is levied; nor shall said tax in any year exceed the sum of five (5c) cents on each one hundred ($100.00) dollars in value of taxable property in said cities for the year in which the said tax is levied; and all funds realized from the levy and collection of said taxes are hereby appropriated and shall go to and be for the benefit of the fund for the pensioning of any policeman and/or fire-

men who has served continuously in the police and/or fire department for at least a period of twenty (20) years and who shall retire from the service after said period, and for the further purpose of pensioning any member of the police and/or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under the age of 14 years, or either of them, of any member of the department who may lose his life while in the service and on active duty. And all rewards, fees, proceeds of gifts and emoluments that may be paid or given on account of extraordinary service of any member of the department shall be paid in the treasury to the credit of the policemen's and/or firemen's pension fund.

The payment so made, together with the tax levy aforesaid, shall constitute and be kept as a fund to be called the policemen's and/or firemen's pension fund, and the said Board of Trustees of the Firemen's and/or Policemen's Pension Fund is hereby declared to be the trustees of said fund, and they shall have power, and it shall be their duty from time to time, to invest the same in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all necessary contracts and to take all necessary remedies in the premises.

§ 11. Said Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall have exclusive control and management of the said fund, and all monies donated, paid or assessed for the relief or pensioning retired, crippled or disabled members of the police and/or fire department, or the widows or dependent children under the age of 14 years, or dependent fathers or mothers of any member of the department killed in the service and while on duty, and may assess each member of the police and/or fire department two (2%) per cent of the salary of such member, to be deducted and withheld from the monthly pay of each member

so assessed, the same to be placed by the treasurer of each city of such fund, subject to the order of such board.

§ 12. The said Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall keep a record of all its meetings and proceedings, and shall promulgate and issue all needful rules and regulations for its government in the discharge of its duties, and shall hear and decide all applications for relief or pensions under this act, subject, however, to the right of the aggrieved person to appeal to the circuit court in the same manner as appeals are provided for in cases of dismissal.

§ 13. The said Board of Trustees of Policemen's and/or Firemen's Pension Fund shall have the power to draw such pension fund from the treasury and may invest the same, or any part thereof, in the name of the Board of Trustees of the Policemen's and/or Firemen's Pension Fund, in interest-bearing bonds of the United States or the State of Kentucky, or in any securities in which trustees or guardians are permitted to invest trust or guardianship funds under the laws of this State, and all such securities shall be deposited with the treasurer of said city as ex-officio treasurer of said board, and shall be subject to the order of said board.

§ 14. Both the principal and interest of said pension fund shall be applicable to the payment of pensions under this act.

§ 15. If any member of the police and/or fire department, while in the performance of his duty, becomes temporarily totally disabled, physically or mentally, the Board of Trustees shall order the payment to such disabled member, monthly, during such disability, not to exceed one year, from such pension fund a sum not exceeding sixty ($60.00) dollars per month, the said amount to be determined by the Board of Trustees, provided such member during the same period is paid no salary as such member. If any member of the police and/or fire department, while in the performance of

his duty, becomes mentally or physically permanently disabled so as to render necessary his retirement from service in said department, said Board of Trustees shall retire such disabled member from service in such department. Upon such retirement, the Board of Trustees shall order the payment to such disabled member of such police and/or fire department, monthly, from such pension fund, a sum equal to one-half of the monthly compensation allowed to such officer, members or employee as salary at the date of his retirement. If any member of said police and/or fire department shall, while in the performance of his duty be killed, or die as a result of an injury received in the line of his duty, or of any disease contracted by reason of his occupation, or shall die from any cause whatsoever, as a result of his services in said department, and while in said service, or after having served for fifteen (15) consecutive years shall die while in the service or on the retired list, from any cause, and shall leave a widow or child or children under the age of 15 years, said Board of Trustees shall direct the payment from said pension fund, monthly, to such widow, while unmarried, of thirty ($30.00) dollars, and for each child, until it reaches the age of 14 years, ($6.00) dollars, and to the dependent father and mother, if said deceased member was unmarried and childless, thirty ($30.00) dollars, the pension to the father and mother to be paid as follows: If the father be dead, the mother shall receive the entire $30.00, and if the mother be dead, the father shall receive the entire $30.00, if both be living, each shall receive $15.00.

§ 16. If, at any time, there shall not be sufficient money in such pension fund to pay each person entitled to the benefit thereof, the amount per month as herein provided, then an equal percentage of such monthly payments shall be made to each beneficiary until the said fund shall be replenished to warrant the payment in full to each of said beneficiaries.

§ 17. Any member of the police and/or fire department of such cities, having served twenty (20) years or more consecutively in such police and/or fire department, and if his application to be received from such police and/or fire department is granted, the Board of Trustees shall order and direct that such persons be paid monthly pension equal to one-half of the amount of salary said person is or was in receipt of as a member of said department at the time of granting application.

§ 18. Whenever an active or retired policeman and/or fireman shall die as aforesaid, the Board of Trustees may appropriate from the fund, a sum not exceeding one hundred ($100.00) dollars to the widow or family for funeral expenses.

§ 19. No person shall be entitled to receive pension from the said fund except a regularly retired member or a regular member in said police and/or fire department, his widow or children under the age of 14 years, or dependent father or mother, and no policeman and/or fireman shall be entitled to the benefits herein provided, incidental to voluntary retirement on account of service, unless he shall have been employed for a period of at least three (3) years from and after the adoption of the ordinance according to this act.

§ 20. The Treasurer of the Board of Trustees of the Policemen's and/or Firemen's Pension Fund shall be the custodian of said pension fund, and shall securely and safely keep the same, subject to the control and direction of said board, and shall keep his books and accounts concerning said fund in such manner as may be prescribed by the board and the said books and accounts shall always be subject to the inspection of the board or any member thereof. The treasurer shall, within ten days after his appointment or election, execute a bond to the city with good and sufficient surety, in such penal sum as the city board shall direct, to be approved by the city board, conditioned for the faithful performance of the duties of his office, and that he will

safely keep and well and truthfully account for all money and properties which may come into his hands, as such treasurer, and that upon the expiration of his term of office he will surrender and deliver to his successor, all bonds, securities, and all unexpended monies or other properties which may have come into his hands as treasurer of said fund. Said bond shall be filed in the office of the treasurer as other bonds, and may be sued on in the name of the city, for the use of said board, or in the name of said board, or any person or persons injured by a breach thereof.

§ 21. It shall be the duty of such officer or officers of the city as are designated by law to draw warrants on the treasurer of said city, on request in writing, by said Board of Trustees, to draw warrants on the treasurer of said city payable to the treasurer of said Board of Trustees for all funds belonging to said pension fund as aforesaid.

§ 22. All monies ordered to be paid from said pension fund to any person or persons shall be paid by the Treasurer of the Board of Trustees only upon warrant signed by the president of said board, and countersigned by the secretary thereof, and no warrant shall be drawn except by order of the board after having been duly entered on the records of the proceedings of the board.

§ 23. The Board of Trustees shall make a report to the city board of said city of the condition of said pension fund, on the last meeting in February and August in each and every year.

§ 24. No portion of said pension fund shall, before or after its order for distribution by the Board of Trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained, or levied upon by virtue of any attachments, execution, writ, injunction, interlocutory, or other order or decree, or any process or proceeding whatever, issued out of or by any court of this State for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand

or judgment against the beneficiary of said fund, but said fund shall be held and distributed for the purposes of this act, and for no other purpose whatever, except that same may be attached and levied upon for the payment and satisfaction of any obligation incurred for necessities, which necessities were obtained after the granting of a pension hereunder.

§ 25. It shall be the duty of the attorneys for the various cities to give advice to the Board of Trustees of the Policemen's and/or Firemen's Pension Fund in all matters pertaining to their duties and management of said fund whenever requested, and he shall represent and defend said board as its attorney in all suits or actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board.

§ 26. All acts or parts of acts in conflict herewith are hereby expressly repealed.

By Mr. Bach.

H. Res. 25. RESOLUTION authorizing the personal representative of Clayton Slone, deceased, to file and prosecute suit against the Commonwealth of Kentucky and the State Board of Charities and Corrections or either of them.

Said resolution is as follows, viz.:

WHEREAS, one Clayton Slone was confined in the State Penitentiary at Eddyville, Kentucky, and was confined in a cell with another prisioner and which other prisioner was then serving a life sentence for murder and which other prisioner is alleged to have been known to be homicidially inclined and to be dangerous and said Clayton Stone, while so confined in said cell in said penitentiary with said other prisoner, was murdered by said other prisoner, allegedly by and through negligence and carelessness on the part of the

prison authorities, and employees of the Commonwealth of Kentucky, and the State Board of Charities and Corrections,

Be it Resolved: by the General Assembly of Kentucky:

One: That the personal representative of the Said Clayton Slone, deceased, be and the said personal representative is hereby permitted, empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky and the State Board of Charities and Corrections, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Board of Charities and Corrections, or either of them, for the injury and death of the said Clayton Slone and the damages to his estate thereby, if any there be; and in the event any judgment in such action is recovered by the personal representative of the said Clayton Slone, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn upon the State Treasurer and paid out of the general fund, or fund provided for the maintenance and operation of penal and charitable institutions, or whichever of said funds the said Commonwealth of Kentucky, and the said State Board of Charities and Corrections may designate.

Two: Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit, and the liability, claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil case.

Three: Said action may be brought in the Lee Circuit Court, or the Lyon Circuit Court, or the circuit court of any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be four thousand ($4,000.00) dollars for the death of the said Clayton Slone and the damages to his estate.

By same.

H. Res 26. RESOLUTION authorizing Emile Smallwood to file and prosecute suit against the Commonwealth of Kentucky and the Lee County Board of Education, or either of them.

Said resolution is as follows, viz.:

WHEREAS, one Emile Smallwood, an infant under the age of twenty one years, and a student at the Lee County High School sustained injuries by being struck by an automobile in use and being operated as a school bus and driven by and operated by one Conley Snowden, alleged to be an employee of the Commonwealth of Kentucky and the Lee County Board of Education and engaged in the performance of his duties under such employment at the time said injuries were inflicted:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the said Emile Smallwood be and he is hereby permitted, empowered and authorized to file and prosecute appropriate action by his next friend or his guardian against the Commonwealth of Kentucky and the Lee County Board of Education, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the Lee County Board of Education, or either of them, for such injuries and damages, if any there be, sustained by the said Emile Smallwood; and in event any judgment in such action is recovered by the said Emile Smallwood, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer, and paid out of the general fund or the common school fund, whichever of said funds the said Commonwealth of Kentucky and the Lee County Board of Education shall elect.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the liability, claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil suit.

§ 3. Said action may be brought in the Lee Circuit Court or the circuit court of any county of Kentucky having jurisdiction of the parties and subject matter. The limit of the liability shall be Five Thousand ($5,000.00) Dollars for the pain, suffering, mental anguish, injuries and damages sustained by the said Emile Smallwood.

Ordered that said bills and resolutions be printed and referred.

The Speaker announced that he had referred bills and resolutions previously introduced, as follows, viz.:

H. Res. 12. To Committee on Claims

H. Res. 13. To Committee on Claims

H. Res. 14. To Committee on Appropriations No. 1

H. Res. 15. To Committee on Claims

H. Res. 16. To Committee on Claims

H. Res. 17. To Committee on Claims

H. Res. 18. To Committee on Claims

H. Res. 19. To Committee on Claims

H. Res. 20. To Committee on Claims

H. Res. 21. To Committee on Claims

H. Res. 22. To Committee on Claims

H. Res. 23. To Committee on Appropriations No. 1

H. B. 109. To Committee on Cities of Second Class

H. B. 110. To Committee on Revenue & Taxation No. 1

H. B. 111. To Committee on Compensation for Industrial Injuries

H. B. 112. To Committee on Kentucky Statutes No. 1-A

H. B. 113. To Committee on State & National Parks

H. B. 115. To Committee on Agriculture No. 1

H. B. 116. To Committee on Appropriations No. 1

H. B. 118. To Committee on State & National Parks

H. B. 120. To Committee on Education 1-A

H. B. 122. To Committee on Kentucky Statutes No. 1

H. B. 124. To Committee on Constitutional Amendments

H. B. 125. To Committee on Constitutional Amendments

H. B. 126. To Committee on Roads & Highways No. 1

H. B. 127. To Committee on Cities of the Fourth Class

H. B. 128. To Committee on Kentucky Statutes No. 1

H. B. 129. To Committee on Kentucky Statutes No. 1

H. B. 130. To Committee on Fish & Game No. 1

H. B. 131. To Committee on Fish & Game No. 1

H. B. 132. To Committee on Circuit Courts

H. B. 133 To Committee on Kentucky Statutes No. 1

H. B. 134. To Committee on Kentucky Statutes No. 1

H. B. 135. To Committee on Roads & Highways No. 1

H. B. 136. To Committee on Kentucky Statutes No. 1

H. B. 137. To Committee on Kentucky Statutes No. 1

H. B. 138. To Committee on Kentucky Statutes No. 1

H. B. 139. To Committee on Veterans Legislation

H. B. 140. To Committee on Kentucky Statutes No. 1

H. B. 141. To Committee on Kentucky Statutes No. 1

H. B. 142. To Committee on Criminal Law

H. B. 143. To Committee on Education No. 1

H. B. 144. To Committee on Education No. 1

H. B. 145. To Committee on Agriculture No. 1

H. B. 146. To Committee on Criminal Law

H. B. 147. To Committee on Public Health No. 1

H. B. 148. To Committee on Education No. 1

H. B. 149. To Committee on Revenue & Taxation No. 1

H. B. 150. To Committee on Education No. 1-A

H. B. 151. To Committee on Kentucky Statutes No. 1

H. B. 152. To Committee on Suffrage & Elections

H. B. 153. To Committee on Kentucky Statutes No. 1

H. B. 154. To Committee on Cities of Second Class

H. B. 155. To Committee on Alcoholic Liquor Control No. 1-A

H. B. 156. To Committee on Education No. 1

H. B. 157. To Committee on Fish & Game No. 1

H. B. 163. To Committee on Education No. 1

H. B. 164. To Committee on Codes of Practice

H. B. 165. To Committee on Motor Transportation

H. B. 168. To Committee on Roads & Highways No. 1

H. B. 169. To Committee on Roads & Highways No. 1

H. B. 170. To Committee on Education No. 1

H. B. 171. To Committee on Appropriations No. 1

H. B. 172. To Committee on Public Health No. 1

H. B. 173. To Committee on Revenue & Taxation No. 1-A

H. B. 174. To Committee on Public Health No. 1

H. B. 175. To Committee on Banks & Banking

H. B. 176. To Committee on Miscellaneous Affairs

H. B. 177. To Committee on Suffrage & Elections

H. B. 178. To Committee on Kentucky Statutes No. 1

H. B. 179. To Committee on Kentucky Statutes No. 1-A

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 43. An Act to provide for the correction of omissions, irregularities, errors, mistakes of election officers.

H. B. 96. An Act providing that the registration books of voters in voting precincts within a city of 3rd class which is not the county seat of the county within which it is situated shall be taken to the courthouse of city hall of such 3rd class city.

H. B. 30. An Act to repeal, amend and re-enact Sec. 4127 of Carroll's Kentucky Statutes, being Sec. 3 of Chapter 130 of the Acts of the Regular Session of the General Assembly of 1928, providing compensation for the members and clerk of the county board of supervisors.

H. B. 62. An Act amending and re-enacting Sec. 532 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 70. An Act to repeal, amend and re-enact Sec. 3, chapter 67 of the Acts of March 19, 1908 known as Section 331e-3, Carroll's Kentucky Statutes, 1936 Edition.

H. B. 71. An Act authorizing the fiscal court of any county to institute condemnation proceedings to acquire lands for public roads, streets, alleys etc.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 34. An Act entitled An Act to amend Section 606 of the Civil Code of Practice.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 606 of the Civil Code of Practice be amended by striking out of said section subsection 1 and inserting in lieu thereof the following:

"In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that neither may be compelled to testify for or against the other," so that when said Section 606 is amended and re-enacted it shall read as follows, to wit:

§ 1. In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that neither may be compelled to testify for or against the other.

§ 2. Infant; lunatic or dead person; when party may testify against. Subject to the provisions of subsection 7 of this section, no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by an infant under fourteen years of age, or by one who is of unsound mind or dead when the testimoney is offered to be given except for the purpose, and to the extent of affecting one who is living, and who, when over fourteen years of age and of sound mind, heard such statement, or was present when such transaction took place, or when such act was done or omitted, and except "in actions for personal injury, death or damage to property by negligence or tortious acts, unless—

a. Infant; provision as to. The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or,

b. Person of unsound mind. The person of unsound mind shall, when of sound mind, have testified against such person, with reference thereto; or,

c. Decedent; provision as to. The decedent, or a representative of, or some one interested in, his estate, shall have testified against such person, with reference thereto; or,

d. Agent of decedent or person of unsound mind. An agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify, with reference thereto.

§ 3. Party can not testify after introducing other testimony. No person shall testify for himself, in chief, in an

ordinary action, after introducing other testimony for himself, in chief; nor in an equitable action, after taking other testimony for himself, in chief.

§ 4. Attorneys and priests as to communications and confessions. No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall a clergyman or priest testify concerning any confession made to him, in his professional character, in the course of discipline enjoined by the church to which he belongs, without the consent of the person confessing.

§ 5. Party testifying against dead person or lunatic. If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified against him, the testimony of such person shall be confined to the facts or transactions to which the adverse testimony related.

§ 6. Entries in books; when party may testify concerning; production of. A person may testify for himself as to the correctness or original entries made by him against persons who are under no disability—other than infancy—in an accounting, according to the usual course of business though the person against whom they were made have died or have become of unsound mind; but no person shall testify for himself concerning entries in a book, or the contents or purport of any writing under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing, and to make it subject to the order of the court for the purposes of the action, if required to do by the party against whom he offers to testify.

§ 7. Assignor of claims when incompetent. The assignment of a claim by a person who is incompetent to testify for himself shall not make him competent to testify for another.

§ 8. Adverse party may be compelled to testify. A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition as any other witness; but the party calling for such examination shall not be concluded thereby, but may rebut it by counter testimony.

§ 9. Affidavits; attesting witnesses; provisions of this section do not apply to. None of the preceding provisions of this section apply to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.

Mr. Savage offered the following amendment to said bill, viz.:

Amend H. B. 34 on page 1, Section 1, line 4 by striking out the word "provided" and inserting after the word "marriage" on page 1, section 1, line 4, the following: "provided, however, that in an action for absolute divorce or divorce from bed and board, either or both of them may testify concerning any matter involved in the action, including questions of property and provided further,"

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Van Y. Greene	B. W. Porter
H. T. Baker	Ralph C. Hamilton	H. O. Porter
G. M. Ballard	C. L. Hammons	Kleber F. Price
Robert E. Barry	T. H. Hickey	Thomas Rigdon
Wm. T. Beard	Clyde S. Howard	Joe E. Robinson
Alvis S. Bennett	Chester Huffines	Lyman Roll
Rell Bevins	John M. Hunnicutt	Jack Savage
Sterling B. Blake	W. H. Hunt	Carl Scheben
Douglas T. Bolling	J. B. Jarboe, Jr.	Leon J. Shaikun
J. F. Bosworth	Chas. X. Jones	Ray O. Shehan
W. S. Brim	John S. Juett	Faust Y. Simpson
C. J. Bronston	William K. King	Bruce Sloan
Gus A. Brooks	W. A. Lamkin, Jr.	Otto Smither
Randolph A. Brown	Robert E. Lee	E. T. Sparks
Haynes Carman	Harvey D. Leonard	J. Claude Stacy
Charles M. Carter	Edward Leslie	Ray J. Stengel
S. B. Chrisman	W. Paul Lyon	Henry Stewart
John Coulter	C. C. May	W. St. Clair Stuart
Pink G. Curd	T. B. McConnell	T. M. Swope
F. E. Daugherty	Frank C. McElwain	Otis C. Thomas
Stanley S. Dickson	E. Hayes McMakin	Erna E. Tyra
Forest C. Easley	Norris McPherson	J. Wood Vance
D. E. Edwards	John B. Mollette	Walter R. Vansant
R. R. Ernst	Davis Moore	S. J. Wagner
Carlos Fallis	J. Lee Moore	Porter Wallace
T. P. Fitzpatrick	Joe T. Morgan	Henry Ward
Cecil Florence	C. Homer Neikirk	H. L. Waterfield
Wayne Freeman	Carl D. Perkins	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Thomas moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Howard moved that the priviledge of the floor be extended to Mr. Dick Hagan of Hardin county.

Said motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended and that a bill entitled:

H. B. 38. An Act to amend subsec. 1 of Section 606 of the Civil Code of Practice, Carroll's 1938 Edition.

Be recommitted

To the Committee on Codes of Practice.

Said motion was agreed to.

Mr. Hunnicutt moved that the House do now take up for immediate consideration from the Clerk's desk, a resolution which was reported to this House from the Senate on yesterday, entitled:

H. Res. 1. Resolution appropriating the sum of $750.00 for a contingent fund for the Clerk of the Senate and appropriating $750.00 for a contingent fund for the Clerk of the House.

With an amendment thereto as proposed and adopted by the Senate

(For Resolution see House Journal of January 9)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amend H. Res. 1 by striking from line 11 therein the

word "Auditor" and inserting in lieu thereof the words "Commissioner of Finance."

Said amendment was then concurred in.

Said resolution was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	C. L. Hammons	Kleber F. Price
H. T. Baker	T. H. Hickey	Thomas Rigdon
Robert E. Barry	Clyde S. Howard	Joe E. Robinson
Wm. T. Beard	Chester Huffines	Lyman Roll
Rell Bevins	John M. Hunnicutt	Jack Savage
Sterling B. Blake	W. H. Hunt	Carl Scheben
Douglas T. Bolling	J. B. Jarboe, Jr.	Leon J. Shaikun
J. F. Bosworth	Chas. X. Jones	Fay O. Shehan
W. S. Brim	John S. Juett	Faust Y. Simpson
C. J. Bronston	William K. King	Otto Smither
Gus A. Brooks	W. A. Lamkin, Jr.	E. T. Sparks
Randolph A. Brown	Robert E. Lee	J. Claude Stacy
Haynes Carman	Harvey D. Leonard	Ray J. Stengel
Charles M. Carter	Edward Leslie	Henry Stewart
S. B. Chrisman	W. Paul Lyon	W. St. Clair Stuart
John Coulter	C. C. May	T. M. Swope
John H. Cox	T. B. McConnell	Otis C. Thomas
Pink G. Curd	Frank C. McElwain	Erna E. Tyra
F. E. Daugherty	E. Hayes McMakin	J. Wood Vance
Forest C. Easley	Norris McPherson	Walter R. Vansant
D. E. Edwards	Stanley C. Moebus	S. J. Wagner
R. R. Ernst	John B. Mollette	Porter Wallace
Carlos Fallis	Joe T. Morgan	Henry Ward
Cecil Florence	C. Homer Neikirk	H. L. Waterfield
Wayne Freeman	Carl D. Perkins	Otis White
Van Y. Greene	B. W. Porter	
Ralph C. Hamilton	H. O. Porter	

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There voted in the negative—

Alvis S. Bennett —1

Mr. Hunnicutt moved that the vote by which said resolution was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said resolution be delivered to the Enrolling Clerk of this House.

Mr. Joe Robinson moved that the rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 2. An Act to amend and re-enact Chapter 65, Acts of the General Assembly of 1932, and to change and fix the time of terms of court in the Tenth Judicial District.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That on and after the first day of May, 1940, the regular terms of the circuit court in the counties comprising the Tenth Judicial District of Kentucky shall commence in each of the counties of the district at the following times and continue for the terms, if the business of the court require it, the number of days hereinafter prescribed namely: Barren

County, at Glasgow, first Monday in January, twelve juridical days; third Monday in April, twelve juridical days; third Monday in June, twelve juridical days; first Monday in September, eighteen juridicial days.

Hart County at Munfordville, third Monday in January, twelve juridical days; first Monday in May, twelve juridical days; fourth Monday in September, twelve juridical days.

Larue County, at Hodgenville, first Monday in February, twelve juridical days; third Monday in May, twelve juridical days; second Monday in October, twelve juridical days.

Nelson County, at Bardstown, third Monday in February, twelve juridical days; first Monday in June, twelve juridical days; fourth Monday in October, twelve juridical days.

Metcalfe County, at Edmonton, fourth Monday in March, six juridical days; first Monday in July, six juridical days; second Monday in November, six juridical days.

Bullitt County, at Shepherdsville, first Monday in April, twelve juridical days; third Monday in July, twelve juridical days; third Monday in November, eighteen juridical days.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

Mr. Vance offered the following amendment to said bill, viz.:

Amend H. B. 2 by inserting before the word "that" in line 1 on page 1, the words and figures as follows: "That chapter 65 Acts of the General Assembly of 1932 be amended to read as follows:"

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Wayne Freeman	Kleber F. Price
H. T. Baker	Van Y. Greene	Thomas Rigdon
G. M. Ballard	Ralph C. Hamilton	Joe E. Robinson
Robert E. Barry	T. H. Hickey	Lyman Roll
Wm. T. Beard	Clyde S. Howard	Jack Savage
Alvis S. Bennett	Chester Huffines	Carl Scheben
Rell Bevins	W. H. Hunt	Leon J. Shaikun
Sterling B. Blake	R. L. Jackson	Ray O. Shehan
Douglas T. Bolling	J. B. Jarboe, Jr.	Faust Y. Simpson
J. F. Bosworth	Chas. X. Jones	Bruce Sloan
W. S. Brim	John S. Juett	Otto Smither
C. J. Bronston	William K. King	E. T. Sparks
Gus A. Brooks	W. A. Lamkin, Jr.	G. C. Springate
Randolph A. Brown	Robert E. Lee	J. Claude Stacy
Haynes Carman	Harvey D. Leonard	Ray J. Stengel
Charles M. Carter	Edward Leslie	Henry Stewart
S. B. Chrisman	W. Paul Lyon	W. St. Clair Stuart
John Coulter	C. C. May	T. M. Swope
John H. Cox	T. B. McConnell	Otis C. Thomas
Pink G. Curd	Frank C. McElwain	Erna E. Tyra
F. E. Daugherty	E. Hayes McMakin	J. Wood Vance
Forest C. Easley	Norris McPherson	Walter R. Vansant
D. E. Edwards	John B. Mollette	S. J. Wagner
Harry W. Ennis	Davis Moore	Porter Wallace
R. R. Ernst	C. Homer Neikirk	Harry F. Walters
Carlos Fallis	Carl D. Perkins	Henry Ward
T. P. Fitzpatrick	B. W. Porter	H. L. Waterfield
Cecil Florence	H. O. Porter	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Vance moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from its place in the Orders of the Day, a bill entitled:

H. B. 13. An Act to amend and re-enact Section 244 Kentucky Criminal Code of Practice, relating to the keeping together and separation of Jurors.

Said motion was agreed to.

Thereupon the House took up for consideration said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 244 of Carroll's Kentucky Criminal Code, Edition of 1932, be amended by adding subsection 2 as follows: "On the trial of crimes which are or may be punished capitally or by life imprisonment the jurors, before the case is submitted to them, may be permitted to separate by agreement of the attorney for the Commonwealth and the attorney for the defendant, with the approval of the trial judge, which shall be in open court and entered of record; provided the consent or approval may be withdrawn before any recess or adjournment of court," so that as amended and re-enacted said Section shall read as follows:

Section 244-1. CASES IN WHICH JURY MUST BE KEPT TOGETHER. On the trial of offenses which are

or may be punished capitally or by life imprisonment the jurors after they are accepted, if all of the same sex, shall not be permitted to separate, but shall be kept together, in charge of the proper officers. But if the jury consists of both male and female, then the sexes of such jury may be permitted to separate during the trial and when necessary after final submission of the case, each sex, being kept together in charge of an officer of like sex, as if two separate juries. On the trial of other felonies the jurors, before the case is submitted to them, may be permitted to separate in the discretion of the court, but after the case is submitted they shall be kept together in charge of officers. On the trial of misdemeanors the jurors may be permitted to separate, or the court may order them to be kept together.

Section 244-2. SEPARATION BY AGREEMENT. On the trial of crimes which are or may be punished capitally or by life imprisonment the jurors, before the case is submitted to them, may be permitted to separate by agreement of the attorney for the Commonwealth and the attorney for the defendant, with the approval of the trial judge, which shall be in open court and entered of record; provided the consent or approval may be withdrawn before any recess or adjournment of court.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	G. M. Ballard	Wm. T. Beard
H. T. Baker	Robert E. Barry	Alvis S. Bennett

Rell Bevins	John M. Hunnicutt	Lyman Roll
Sterling B. Blake	W. H. Hunt	Jack Savage
Douglas T. Bolling	J. B. Jarboe, Jr.	Carl Scheben
J. F. Bosworth	Chas. X. Jones	Leon J. Shaikun
W. S. Brim	John S. Juett	Ray O. Shehan
C. J. Bronston	William K. King	Faust Y. Simpson
Gus A. Brooks	W. A. Lamkin, Jr.	Otto Smither
Randolph A. Brown	Robert E. Lee	E. T. Sparks
Haynes Carman	Harvey D. Leonard	G. C. Springate
Charles M. Carter	Edward Leslie	J. Claude Stacy
John Coulter	W. Paul Lyon	Ray J. Stengel
John H. Cox	C. C. May	Henry Stewart
Pink G. Curd	Frank C. McElwain	W. St. Clair Stuart
F. E. Daugherty	E. Hayes McMakin	T. M. Swope
Forest C. Easley	Norris McPherson	Otis C. Thomas
D. E. Edwards	Stanley C. Moebus	Erna E. Tyra
Harry W. Ennis	John B. Mollette	J. Wood Vance
R. R. Ernst	Davis Moore	Walter R. Vansant
Carlos Fallis	C. Homer Neikirk	S. J. Wagner
T. P. Fitzpatrick	Carl D. Perkins	Porter Wallace
Wayne Freeman	B. W. Porter	Harry F. Walters
Van Y. Greene	H. O. Porter	Henry Ward
Ralph C. Hamilton	Kleber F. Price	H. L. Waterfield
T. H. Hickey	Hobart Rayburn	Otis White
Clyde S. Howard	Thomas Rigdon	
Chester Huffines	Joe E. Robinson	—82

Resolved that the title thereof be as aforesaid.

Mr. King moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 31. AN ACT entitled an ACT authorizing cities of the second, third, fourth, fifth, and sixth classes to provide public liability insurance for the police and fire departments and the members thereof; to provide for appropriation of money from the general funds of such cities to pay the premium of such public liability insurance, and repealing all laws or parts of laws in conflict herewith.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Cities of the second, third, fourth, fifth and sixth class, may, by ordinance, of the Legislative body of such cities, provide public liability insurance for the regular police department and the members thereof and for regular fire department if one is maintained, or for the volunteer fire department and the members thereof, for the indemnity of such members of police and fire departments as hereinbefore stated against any claims for damages resulting from the operation or use of any motor vehicle, machine, apparatus or equipment of such departments arising from the use and operation of same in any activity within the usual and normal prescribed duties or purposes of such departments.

§ 2. Such public liability insurance may be contracted for the coverage of individuals of the departments, or it may be contracted on a group plan for the coverage of all members of such departments, and such cities shall pay for the premiums on such insurance out of the General funds of such cities.

§ 3. All laws or parts of laws in conflict herewith are hereby repealed.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Ralph C. Hamilton	Kleber F. Price
H. T. Baker	C. L. Hammons	Hobart Rayburn
G. M. Ballard	T. H. Hickey	Thomas Rigdon
Robert E. Barry	Clyde S. Howard	Joe E. Robinson
Wm. T. Beard	Chester Huffines	Lyman Roll
Alvis S. Bennett	John M. Hunnicutt	Jack Savage
Rell Bevins	W. H. Hunt	Carl Scheben
Sterling B. Blake	J. B. Jarboe, Jr.	Ray O. Shehan
Douglas T. Bolling	Chas. X. Jones	Faust Y. Simpson
W. S. Brim	John S. Juett	Bruce Sloan
C. J. Bronston	W. A. Lamkin, Jr.	Otto Smither
Gus A. Brooks	Robert E. Lee	E. T. Sparks
Randolph A. Brown	Harvey D. Leonard	G. C. Springate
Charles M. Carter	Edward Leslie	J. Claude Stacy
John Coulter	W. Paul Lyon	Ray J. Stengel
John H. Cox	C. C. May	Henry Stewart
Pink G. Curd	T. B. McConnell	W. St. Clair Stuart
F. E. Daugherty	Frank C. McElwain	T. M. Swope
Stanley S. Dickson	E. Hayes McMakin	Otis C. Thomas
Forest C. Easley	Norris McPherson	J. Wood Vance
D. E. Edwards	Stanley C. Moebus	Walter R. Vansant
R. R. Ernst	John B. Mollette	S. J. Wagner
Carlos Fallis	Davis Moore	Porter Wallace
T. P. Fitzpatrick	C. Homer Neikirk	Harry F. Walters
Cecil Florence	Carl D. Perkins	Henry Ward
Wayne Freeman	B. W. Porter	H. L. Waterfield
Van Y. Greene	H. O. Porter	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 121. An Act to repeal, amend and re-enact Chapter 16 of the Acts of the General Assembly of the Commonwealth of Kentucky in Extraordinary Session which was begun in the City of Frankfort, Kentucky, on Monday, March 30, and ended on Saturday, May 9, 1936 now codified as Section 4238 Carroll's Kentucky Statutes, Baldwin's 1936 Revision and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 16 of the Acts of the General Assembly of the Commonwealth of Kentucky in Extraordinary Session, which was begun in the City of Frankfort, Kentucky, on Monday, March 30, and ended on Saturday, May 9, 1936, now codified as Section 4238 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended and reenacted so that said section as amended and reenacted shall read:

"(a) There is imposed a tax of four dollars ($4.00) on each verdict of a petit jury in civil cases in circuit court;

"(b) There is imposed a tax of three dollars and fifty cents ($3.50) on each marriage license;

"(c) There is imposed upon the filing and registering of a plat and certificate of survey, and issuing and recording

patent thereon one charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the register's office, a tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and a tax of five dollars ($5.00) for each survey in excess of ten (10) acres;

"(d) There is imposed a tax of two dollars ($2.00) on each appeal to the Court of Appeals;

"(e) There is imposed a tax of one dollar ($1.00) on each deed or power of attorney to convey real or personal estate; on each mortgage or conveyance of real or personal property; on each lien or conveyance of coal, oil, gas or other mineral right or privilege; but no tax shall be paid on any chattel mortgage unless the amount thereof exceeds two hundred ($200.00) dollars;

"(f) There is imposed a tax of one dollar ($1.00) for issuing a land warrant, for each official certificate with seal of office affixed.

"(g) There is imposed a tax of fifty cents (50c) as follows: On each original action or proceeding in the circuit court, commencing with or without original process, and on each original action or proceeding in other courts, when the amount in controversy, exclusive of interest and costs, exceeds fifty dollars ($50.00); and on each appeal to the circuit or quarterly court and on each traverse of forcible entry or detainer and on each proceeding to reverse a judgment;

"(h) There is imposed a tax of fifty cents (50c) on the seal of court required by law to keep a seal except for the purpose of issuing the license authorized by the State;

"(i) There is imposed a tax of fifty cents (50c) for a copy of a plat; for a copy of a course and distances of any patent or survey; and for a copy of an entry or land warrant;

"(j) There is imposed a tax of twenty-five cents (25c) for filing a caveat; for filing a copy of judgment of a court in

a case of a caveat, mandamus or other proceeding affecting the land office, or the duties of the register; and for a copy of an assignment;

"(k) There is imposed a tax of two cents (2c) for each twenty words of: a copy of a caveat; a copy of any writing not specifically provided for.

"Said tax shall be due and payable when said processes or instruments are filed or issued, or copies thereof furnished; provided this act shall not be so construed as to require any tax upon a deed of the release of a lien retained in a deed or mortgage."

§ 2. All revenues derived under the provisions of this Act shall be covered into the State Treasury and credited to the General Expenditure Fund.

§ 3. Whereas, the present State revenue does not meet the immediate needs for the maintenance of the State government and its agencies, an emergency is declared to exist, and this Act shall become a law and be effective on its passage and approval by the Governor.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Alvis S. Bennett	C. J. Bronston
H. T. Baker	Rell Bevins	Gus A. Brooks
G. M. Ballard	Sterling B. Blake	Randolph A. Brown
Robert E. Barry	J. F. Bosworth	Haynes Carman
Wm. T. Beard	W. S. Brim	Charles M. Carter

John Coulter	J. B. Jarboe, Jr.	Hobart Rayburn
John H. Cox	Chas. X. Jones	Thomas Rigdon
Pink G. Curd	John S. Juett	Joe E. Robinson
F. E. Daugherty	W. A. Lamkin, Jr.	Lyman Roll
Forest C. Easley	Robert E. Lee	Jack Savage
D. E. Edwards	Harvey D. Leonard	Carl Scheben
Harry W. Ennis	Edward Leslie	Faust Y. Simpson
R. R. Ernst	W. Paul Lyon	Otto Smither
Carlos Fallis	C. C. May	G. C. Springate
T. P. Fitzpatrick	T. B. McConnell	J. Claude Stacy
Cecil Florence	Frank C. McElwain	Ray J. Stengel
Wayne Freeman	E. Hayes McMakin	Henry Stewart
Eugene Gough	Norris McPherson	W. St. Clair Stuart
Van Y. Greene	Stanley C. Moebus	Otis C. Thomas
Ralph C. Hamilton	John B. Mollette	J. Wood Vance
C. L. Hammons	Davis Moore	S. J. Wagner
T. H. Hickey	Joe T. Morgan	Porter Wallace
Clyde S. Howard	C. Homer Neikirk	Harry F. Walters
Chester Huffines	Carl D. Perkins	Henry Ward
John M. Hunnicutt	B. W. Porter	H. L. Waterfield
W. H. Hunt	H. O. Porter	
R. L. Jackson	Kleber F. Price	—79

Resolved that the title thereof be as aforesaid.

Mr. Lamkin moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 158. An Act to amend Sec. 1234 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

(1) That section 1234 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition is amended to read as follows:

If an offense mentioned in section 1232 or 1233 was committed by a convict confined in the Kentucky State Penitentiary at Eddyville, the Lyon Circuit Court shall have jurisdiction; if the offense was committed by a convict confined in the Frankfort Division of the Kentucky State Reformatory at Frankfort, the Franklin Circuit Court shall have jurisdiction; if the offense was committed by a convict confined in the Women's Division of the Kentucky State Reformatory in Shelby County, the Shelby Circuit Court shall have jurisdiction; if the offense was committed by a convict confined in the Kentucky State Reformatory at LaGrange or assigned to work in camps or other institutions in any county of the State, the Oldham Circuit Court shall have jurisdiction.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	J. F. Bosworth	John Coulter
H. T. Baker	W. S. Brim	John H. Cox
G. M. Ballard	C. J. Bronston	Pink G. Curd
Robert E. Barry	Gus A. Brooks	F. E. Daugherty
Wm. T. Beard	Randolph A. Brown	Stanley S. Dickson
Alvis S. Bennett	Haynes Carman	Forest C. Easley
Rell Bevins	Charles M. Carter	D. E. Edwards
Sterling B. Blake	S. B. Chrisman	Harry W. Ennis

R. R. Ernst	Edward Leslie	Carl Scheben
Carlos Fallis	W. Paul Lyon	Ray O. Shehan
T. P. Fitzpatrick	C. C. May	Faust Y. Simpson
Cecil Florence	Frank C. McElwain	Otto Smither
Wayne Freeman	E. Hayes McMakin	E. T. Sparks
Eugene Gough	Norris McPherson	G. C. Springate
Ralph C. Hamilton	Stanley C. Moebus	J. Claude Stacy
C. L. Hammons	John B. Mollette	Ray J. Stengel
T. H. Hickey	Davis Moore	Henry Stewart
Clyde S. Howard	Joe T. Morgan	W. St. Clair Stuart
Chester Huffines	C. Homer Neikirk	Otis C. Thomas
W. H. Hunt	Carl D. Perkins	Erna E. Tyra
R. L. Jackson	B. W. Porter	J. Wood Vance
J. B. Jarboe, Jr.	H. O. Porter	Walter R. Vansant
Chas. X. Jones	Kleber F. Price	Porter Wallace
John S. Juett	Hobart Rayburn	Harry F. Walters
W. A. Lamkin, Jr.	Thomas Rigdon	Henry Ward
Robert E. Lee	Joe E. Robinson	H. L. Waterfield
Harvey D. Leonard	Lyman Roll	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Curd moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 160. AN ACT to repeal, amend and re-enact Section 263b-16 of Carroll's Kentucky Statutes, 1938 Revision, being Section 16 of Chapter I of the Acts, passed by the General Assembly at the Second Extraordinary Session of 1938, and providing for the admission of persons to hospitals and institutions, both voluntary and by request of health officer; also providing for patients returned from other states,

and regulating the admission of epileptics, idiots and feeble-minded.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 263b-16 of Carroll's Kentucky Statutes, 1938 Revision, being Section 16 of Chapter I of the Acts, passed by the General Assembly at the Second Extraordinary Session of 1938, be amended and re-enacted so that when so re-enacted it will read as follows:

16. *Voluntary Admission and Admission on Health Officers' Request:*

In addition to existing laws governing commitment and admission to hospitals and institutions, the following provisions for voluntary admission, and admission on health officers' certificates, are hereby enacted:

Voluntary Admissions: Any person thought to be mentally ill may make application in writing, to the superintendent of any hospital for mental diseases, for admission as a patient to such hospital, and such application shall be signed by the applicant in the presence of at least two witnesses.

If the said superintendent shall be satisfied, after examining the applicant, that he is in need of hospital treatment and will be benefited thereby, and that the mental condition of the applicant is such as to render him competent to make such application, said superintendent may receive and care for the applicant in the hospital.

Such patient shall not be detained against his will for more than ten days from the date that said patient notifies the superintendent either in writing or verbally of his desire to leave said hospital. The superintendent of the said hospital, if in his opinion the patient is dangerous to himself or society, shall, within the same ten days, sign a petition for an inquest

concerning the sanity of the said patient, as is now provided by law.

Voluntary admissions, as provided for in this Section, shall be paid for by the patient, as now provided by law, except in the cases of pauper patients.

Admission on Health Officers' Request: The superintendent in charge of any state hospital for the mentally ill (except those designated for the care of the criminal insane), shall, when requested by a health officer, receive and care for in such hospital or such institution, as a patient, for a period not exceeding ten days from and inclusive of the date of request, any person who needs immediate care and treatment because of mental derangement other than drug addiction or drunkenness. Such request for admission of a patient, based on a personal examination, must be in writing, and shall be filed at the hospital or institution at the time of his reception. Any such patient who is deemed by the superintendent not suitable for such care shall, upon the formal request of the superintendent, be forthwith removed from the hospital or institution by the health officer, who requested his admission, within ten days. If, however, the superintendent finds him to be a suitable person for care and treatment, he shall notify the circuit court having jurisdiction, or if the circuit court is not in session, the judge of the circuit or county court, who shall then appoint two medical examiners and shall proceed as in commitment proceedings.

Admission of Patients Returned from other States. Legal residents of the State of Kentucky who have become public charges in other states, and returned to Kentucky by those state because they have been adjudged insane or feeble-minded by the courts of the state returning them, may be immediately admitted to a Kentucky State Hospital or to the Feeble-Minded Institute at the request of any health officer. However, if a health officer is not available for the purpose, the superintendent of the Kentucky State institution may receive such returned legal resident of Kentucky directly from

the hands of the out-of-state official who has him in custody. Immediately upon such admission, the superintendent shall notify the Circuit Court, or the County Court if the Circuit Court is not in session, accompanying such notification with a petition for a lunacy inquest, but holding the returned legal resident in his custody until such inquest is ordered by the court; *provided that no superintendent may receive such a person from the hands of the officials of another state until he has been notified by the Director of the Division of Hospitals and Mental Hygiene that the person's legal residence has been investigated and verified by the county judge, or his officially designated agent, of the county in which residence is claimed.*

Admission of Epileptics, Idiots and Feeble-Minded. Hereafter no epileptic, idiot, or feeble-minded person shall be committed to a State Hospital for the insane. But any epileptic or feeble-minded person becoming insane may be committed as an insane person to a State Hospital for custody and treatment therein.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	W. S. Brim	John Coulter
H. T. Baker	C. J. Bronston	John H. Cox
G. M. Ballard	Gus A. Brooks	Pink G. Curd
Robert E. Barry	Randolph A. Brown	W. Q. Daniel
Wm. T. Beard	Haynes Carman	F. E. Daugherty
Rell Bevins	Charles M. Carter	Forest C. Easley
J. F. Bosworth	S. B. Chrisman	D. E. Edwards

Harry W. Ennis	W. Paul Lyon	Faust Y. Simpson
R. R. Ernst	C. C. May	Otto Smither
Carlos Fallis	T. B. McConnell	E. T. Sparks
T. P. Fitzpatrick	Frank C. McElwain	G. C. Springate
Cecil Florence	E. Hayes McMakin	J. Claude Stacy
Wayne Freeman	Norris McPherson	Ray J. Stengel
Eugene Gough	Stanley C. Moebus	Henry Stewart
Van Y. Greene	Davis Moore	W. St. Clair Stuart
Ralph C. Hamilton	Joe T. Morgan	T. M. Swope
T. H. Hickey	C. Homer Neikirk	Otis C. Thomas
Clyde S. Howard	Carl D. Perkins	Erna E. Tyra
Chester Huffines	B. W. Porter	J. Wood Vance
W. H. Hunt	H. O. Porter	Walter R. Vansant
R. L. Jackson	Kleber F. Price	S. J. Wagner
J. B. Jarboe, Jr.	Hobart Rayburn	Porter Wallace
Chas. X. Jones	Thomas Rigdon	Harry F. Walters
John S. Juett	Joe E. Robinson	Henry Ward
W. A. Lamkin, Jr.	Lyman Roll	H. L. Waterfield
Robert E. Lee	Carl Scheben	Otis White
Harvey D. Leonard	Ray O. Shehan	—80

Resolved that the title thereof be as aforesaid.

Mr. Vance moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hunnicutt requested that the Speaker direct the Sergeant-at-Arms to distribute the Legislative Digest to the members of the House only and if they are in their seats at the time of distribution.

Said request was granted.

Mr. Sparks moved that when the House adjourn today, it adjourn out of respect to the memory of the late United States Senator William E. Borah from the State of Idaho.

Said motion was agreed to.

Mr. Joe Robinson moved that the House do now adjourn to meet again on to-morrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, JANUARY 23, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend C. W. Grant of the Methodist Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Charles M. Carter	Eugene Gough
J. Everett Bach	James W. Chapman	Van Y. Greene
H. T. Baker	S. B. Chrisman	Ralph C. Hamilton
G. M. Ballard	John H. Cox	C. L. Hammons
Robert E. Barry	Pink G. Curd	T. H. Hickey
Wm. T. Beard	W. Q. Daniel	Chester Huffines
Alvis S. Bennett	F. E. Daugherty	John M. Hunnicutt
Rell Bevins	Stanley S. Dickson	W. H. Hunt
Sterling B. Blake	Forest C. Easley	J. B. Jarboe, Jr.
Douglas T. Bolling	D. E. Edwards	Chas. X. Jones
J. F. Bosworth	Harry W. Ennis	John S. Juett
W. S. Brim	R. R. Ernst	William K. King
C. J. Bronston	Carlos Fallis	W. A. Lamkin, Jr.
Gus A. Brooks	T. P. Fitzpatrick	Robert E. Lee
Randolph A. Brown	Cecil Florence	Harvey D. Leonard
Haynes Carman	Wayne Freeman	Edward Leslie

W. Paul Lyon	H. O. Porter	Ray J. Stengel
C. C. May	Kleber F. Price	Henry Stewart
T. B. McConnell	Hobart Rayburn	W. St. Clair Stuart
Frank C. McElwain	Thomas Rigdon	T. M. Swope
E. Hayes McMakin	Joe E. Robinson	Otis C. Thomas
Norris McPherson	Lyman Roll	Erna E. Tyra
G. Sam Milam	Jack Savage	J. Wood Vance
Stanley C. Moebus	Leon J. Shaikun	Walter R. Vansant
John B. Mollette	Ray O. Shehan	S. J. Wagner
Davis Moore	Faust Y. Simpson	Porter Wallace
J. Lee Moore	Bruce Sloan	Harry F. Walters
Joe T. Morgan	Otto Smither	Henry Ward
C. Homer Neikirk	E. T. Sparks	H. L. Waterfield
Carl D. Perkins	G. C. Springate	Otis White
B. W. Porter	J. Claude Stacy	James H. Woods

Mr. Bach moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Easley moved that the privilege of the floor be extended to Mr. Joel T. Crenshaw of Georgetown, Kentucky.

Said motion was agreed to.

Mr. Cox moved that the privilege of the floor be extended to Mr. C. W. Maloney of Madisonville, Kentucky.

Said motion was agreed to.

Mr. Shaikun moved that the House conduct an open hearing on Thursday, January 25, at three o'clock P. M. on a bill entitled:

H. B. 83. An Act relating to public health and to be known as "The State Food and Drug Act."

For the purpose of hearing proponents and opponents of said bill.

Said motion was agreed to.

Mr. J. Lee Moore offered the following resolution, viz.:

H. Res. 30. Joint Resolution providing for hearing on Soil Conservation Bill.

WHEREAS, it appearing to the General Assembly of the Commonwealth of Kentucky that the Soil Conservation Bill presents problems of great public interest to the Commonwealth, and

WHEREAS, the General Assembly is desirous of being informed upon this Act, and of hearing all persons who may properly come before the Assembly, now therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the General Assembly of the Commonwealth of Kentucky meet in joint session in the chamber of the House of Representatives at 7:30 P. M., January 25, 1940 for the purpose of hearing a discussion of the Soil Conservation Bill by the opponents thereof.

Said resolution was adopted.

Mr. J. Lee Moore moved that the Clerk of this House be directed to have printed three hundred additional copies of a bill entitled:

H. B. 80. An Act to be known as "The Soil Conservation Bill."

Said motion was agreed to.

Mr. Joe E. Robinson moved that the session of to-day be extended indefinitely.

Said motion was agreed to.

The following bills and resolution were introduced, viz.:

By Mr. Brown.

H. B. 198. An Act providing a notice to cities of the State of Kentucky of intention to claim damages for any injuries.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That no action shall be maintained against any city in the State of Kentucky on account of any injury growing out of any defect in the condition of any bridge, boulevard, street, sidewalk, alley or other public thoroughfare in the said cities unless notice shall have been given the Mayor or City Clerk, or Clerk of the Board of Aldermen of said cities in the same manner as is provided for the service of notice in actions in the Civil Code of Practice. This notice shall be filed within ninety (90) days of the occurrence for which damage is claimed, stating the time of and place where the injury was received and the character and circumstances of the injury, and that the person injured will claim damages therefor from said city.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed to the extent of such conflict.

By Mr. H. O. Porter.

H. B. 199. An Act relating to the trapping of certain fur-bearing animals and providing that it shall be unlawful to

use steel traps in the capture of muskrat and mink in drowning sets.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. It shall be lawful to use the common steel trap for one purpose only, that of capturing muskrat and mink in drowning sets, and said traps shall be of the one and a half (1½) size only, set at the water's edge of streams, lakes or ponds, or any island or feed bed, or upon any floating, submerged, or partly submerged object therein; Provided also that when trap is set the end of trap chain, or the end of any extension thereof, shall be staked or fastened in water not less than twenty (20) inches in depth; Provided also that steel traps shall not be used for the capture of fur-bearing animals other than in water and in drowning sets.

§ 2. Any violation of this law, or any part thereof, shall subject the offender to a fine of not less than Ten ($10.00) Dollars, nor more than Fifty ($50.00) Dollars.

By Mr. White.

H. B. 200. An Act to amend section 216aa-72 of Carroll's Kentucky Statutes, 1936 Edition, and providing for the arrest of dangerous insane and feeble-minded persons.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 216aa-72 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

216aa-72. *Notice of inquest; service of summons; arrest of dangerous person.* (1) All persons named in the petition, including the alleged feeble-minded person, epileptic, insane person or idiot, if of legal age, shall be notified of such pro-

ceeding by a summons issued requiring the parent or parents, guardian or other person having the custody, control or supervision of such person or with whom such person may be, to appear with such person at a time and place to be stated in the summons, which time shall not be less than three (3) days after service. The parents of such person, if living, if their residence be known to the petitioner, or the legal guardian, if one there be, and his residence is known to the petitioner, or if there be neither parent or guardian whose residence is known to the petitioner, then some near relative, if his or her residence be known to the petitioner, shall be notified also of the proceedings.

(2) If the petition alleges that the feeble-minded, epileptic, insane person or idiot is of violent character and is dangerous, warrant may be issued for the arrest of the person.

By same.

H. B. 201. AN ACT relating to allowances to pauper idiots and amending sections 216aa-57, 216aa-61, and 216aa-62 of Carroll's Kentucky Statutes, 1936 edition, and repealing section 364 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 216aa-57 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

216aa-57. *State aid to pauper idiot.* (1) A person having the personal care and custody of a pauper idiot shall be allowed not more than seventy-five dollars per annum out of the State Treasury, upon filing with the Department of Finance a copy of the inquisition and order of the court adjudging the idiot to be a pauper, which copy shall be certified by the court holding the inquest.

(2) If the idiot for which an allowance is made dies or ceases to be a pauper, a proportionate part of the allowance from the anniversary date of the allowance to the day of his death or his ceasing to be a pauper shall be paid.

§ 2. Section 216aa-61 of Carroll's Kentucky Statutes, 1936 edition is amended to read as follows:

216aa-61. *Allowance; copy of inquest to be furnished department of finance.* A copy certified by the clerk of each original and subsequent inquisition, shall be transmitted to the Department of Finance; without such transcript the Department of Finance shall issue no warrant for the amount allowed by the court.

§ 3. Section 216aa-62 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

216aa-62. *Circuit clerk to furnish annually list of pauper idiots; penalty.* The circuit court clerk of each county shall transmit to the Department of Finance, on or before the tenth of September in each year, a list of the pauper idiots in his county; if he fails to do so without good cause he shall be fined fifty dollars.

§ 4. Section 364 of Carroll's Kentucky Statutes, 1936 edition is repealed.

§ 5. This Act shall not take effect until July 1, 1942.

By Mr. Waterfield.

H. B. 202. An Act to amend section 5 of Chapter 21 of the Acts of 1938 first extraordinary session, compiled as section 4154 of Baldwin's Kentucky Statute Service, May, 1938, relating to the collection of revenue.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 5 of Chapter 21 of the Acts of 1938, first extraordinary session, compiled as section 4154 of Baldwin's

Kentucky Statute Service, May, 1938, is amended to read as follows:

If the land be not redeemed within the redemption period allowed for that purpose, the fee-simple title thereto shall vest absolutely in the state, county and district, each having a joint interest therein in proportion to the tax due them respectively; and if said lands purchased by individuals be not redeemed within the redemption period allowed for that purpose, the fee-simple title shall at once vest in that individual.

The Commissioner of Revenue may give the notice required of the county attorney in section four of this act if the county attorney fails or refuses to do so within six (6) months after the expiration of three (3) years from the date of the sale provided for in section two of this act, and may institute suit for possession. At any time after recovery of possession, the Commissioner of Revenue or his proper designated agent may advertise and sell at public sale any of said lands forfeited to the state, and the Commissioner of Revenue may convey said lands by deed to the purchaser, and he shall pay to the county or district, or both, the amount of such tax due each. The proper designated agent of the Department of Revenue shall be allowed fifteen per cent (15%) for the collection and payment into the treasury of said delinquent taxes, the fifteen per cent (15%) to be collected from the delinquent or purchaser and subject to the lien of the county for any costs of sales paid by the county, shall be paid as a preferred claim from the proceeds of the sale. If the delinquent redeems the land from the state prior to the sale provided for in this section, but after the Commissioner of Revenue or his proper designated agent has commenced proceedings to take possession or to sell same as provided for in this section, he shall pay the fifteen per cent (15%) provided for herein in addition to the taxes, penalties, interest, costs and commissions otherwise due thereon.

The sale shall be advertised by publication once a week for three consecutive weeks prior to the day of sale in the

newspaper of largest general bona fide circulation published in the county, or, if there is no such newspaper, by posting printed hand bills for fifteen (15) days before the sale at the courthouse door and in three or more conspicuous places in the taxing district; and the Commissioner of Revenue or his proper designated agent shall send to the delinquent a registered letter, addressed to his place of residence or place of business, if it can be ascertained, or post a written notice in a conspicuous place on the land, notifying him of the time and place of sale, and that unless he redeems prior to the sale by paying the taxes, penalties, interest, costs and commissions, including the fifteen per cent (15%) commission and advertising cost, the land shall be sold. If the costs of the sale provided for herein have to be paid before the sale, they shall be paid by the county and the county shall have a first lien on the land for any sums so paid.

By Mr. Hunnicutt.

H. B. 203. AN ACT to provide for the general welfare of workers by extending the functions and duties of the Department of Industrial Relations, placing upon employers and employees certain obligations, requiring safety in places of employment, requiring meditation of disputes between employer and employee, requiring employers to allow employees one day's rest in seven, extension of guidance and assistance to young workers under an apprenticeship system to enable them to learn a trade, prescribing the functions of the courts hereunder, and providing for penalties for violation and/or nonobservance thereof in whole or in part.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

GENERAL PROVISIONS

§ 1. Definitions: When used in this Act.

(a) The present tense includes past and future tenses; and the future, the present.

(b) A masculine gender includes the feminine and neuter.

(c) The singular number includes the plural, and the plural the singular.

(d) "Shall" is mandatory and "may" is permissive.

e) "Person" means any person, association, organization, partnership, business trust, or corporation.

(f) "Employer" shall mean and include every person having direction, management, control, or custody of any employment, place of employment, or any employee.

(g) "Employee" means every person who is required or directed by an employer, to engage in any place of employment, or to go to work or be at any time in any place of employment.

(h) "Employment" and "place of Employment" means any place, and the premises appurtenant thereto, where employment includes the carrying on of any trade, enterprise, project, industry, business, occupation or work, including all excavation, demolition and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire except in household domestic service, farming, and in charitable institutions.

(i "Department" means Department of Industrial Relations and includes the Commissioner of Industrial Relations.

(j) "Commissioner" means Commissioner of Industrial Relations and includes the Department of Industrial Relations.

§ 2. *General Powers and Duties:* There is in the State Government the Department of Industrial Relations which shall be conducted under the control of an executive officer

known as the Commissioner of Industrial Relations, and said Commissioner, during the period of his services as Commissioner, shall receive a salary of $5,000 per annum, payable monthly. The Commissioner shall perform all duties, exercises all powers and jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the department. For the purpose of administration, the Commissioner shall organize the department subject to the approval of the Governor, in the manner which he deems necessary properly to segregate and conduct the work of the department.

§ 3. *Commissioner to Name Assistants:* The Commissioner by and with the advice and consent of the Governor shall appoint deputies, attorneys, statisticians, inspectors, assistants (technical and otherwise), clerical workers, and other employees and fix their salaries. Such employees shall devote their full time to the work of the department and shall receive their actual necessary traveling and other expenses. The Commissioner shall detail the authority, functions and duties of the employees of the department.

§ 4. *Duty to Advance General Welfare:* The department shall foster, promote, and develop the welfare of the wage earners of Kentucky, improve their working conditions, and advance their opportunities for profitable employment. The Commissioner shall inquire into causes of injuries and occupational diseases constantly occuring to workers engaged in trade and industry and advance measures for the prevention of accidents and of injuries to workers and to improve sanitary conditions.

§ 5. *Commissioner to Investigate Labor Disputes:* The commissioner shall inquire into the cause of all strike, lockouts and other industrial controversies, and endeavor to effect an amicable settlement thereof, and may create within the department a board or boards to which controversies between employers and employees may be submitted for meditation and arbitration.

§ 6. *Department to Collect Statistics:* The department shall make investigations, collect and compile statistical information and report upon the conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this Act and of other laws of the Commonwealth relating to employer-employee relations and working conditions.

§ 7. *Inspection Duty:* The commissioner shall have inspected every place which is, or which he has reasonable cause to believe is, affected by the provisions of this Act, or of the laws of the Commonwealth relating to the employment of labor, and he may in person or by deputy, in the discharge of his duties, enter places of employment.

§ 8. *Records Subject to Inspection:* All papers, books, records, or other documents required to be kept by the provisions of this Act, or of the laws subject to the administration and enforcement of the department shall at all times be open for the inspection of the commissioner and his deputies, and the person in charge thereof shall afford every reasonable facility for their examination and permit copies to be made when lawfully required by the commissioner.

§ 9. *Employers Shall Cooperate with Department:* Any person, or agent or officer thereof, who refuses admission to the commissioner and his deputies, who, upon requests, willfully disregards or refuses to furnish them any statistics or information, pertaining to their duties, which are in his possession or under his control, shall be deemed guilty of a misdemeanor; and any person who willfully prevents the Commissioner and his deputies in the performance of their duty shall be deemed guilty of a misdemeanor and either case shall be punishable by a fine of not less than $10 nor more than $50, or imprisonment for not less than seven or more than thirty days in the county jail, or both, in the discretion of the court.

§ 10. *Commissioner to Make Reports:* The Commissioner shall present biannual reports to the General Assembly,

presenting statistical details relating to labor in the Commonwealth, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on daily labor for their support, the probable chances of all being employed, the number of unemployed wage earners and the number of those depending on public relief, facts relating to industrial accidents and of workers compensated for industrial injuries, labor disputes, strikes, and facts relating to the activities of the department in law enforcement and of its work generally.

§ 11. *Authority to Issue Subpoenas:* The commissioner and his deputies may issue subpoenas to compel the attendance of witnesses and parties and the production of books, papers and records, administer oaths; examine witnesses under oath; take the verification or proof of written instruments; and take depositons and affidavits for the purpose of carrying out the provisions of this Act and of all laws over which the department has jurisdiction.

§ 12. *Subpoenas to be Obeyed:* Obedience to subpoenas issued by the commissioner and his deputies shall be enforced by the courts and it shall be deemed a misdemeanor to ignore willfully such a subpoena if it calls for an appearance at a distance from the place of service of fifty miles, or less.

§ 13. *Cooperation with Federal Agencies:* The commissioner, by and with the consent of the Governor, is hereby authorized to enter into cooperative arrangements with appropriate agencies of the Federal Government, whereby Acts of Congrss and regulations issued in pursuance thereof, as affects the employment of labor within the Commonwealth of Kentucky may be administered, supervised, inspected and enforced by the department.

§ 14. *Child Labor Law:* The department shall have exclusive jurisdiction over the administration and enforcement of the "Child Labor Law," Act of 1914, as annotated in Carroll's Kentucky Statutes, Section 331-A to 18, inclusive.

§ 15. *Women's Working Law:* The department shall have exclusive jurisdiction over the administration and enforcement of the "Act Regulating the Employment of Women to Safeguard Their Health," Act of 1912, as annotated in Carroll's Kentucky Statutes, Sections 4866B-1 to 7 inclusive.

§ 16. *Regulating Private Employment Agencies:* The department shall have exclusive jurisdiction over the administration and enforcement of the "Act Regulating Private Employment Agencies," Act of 1932, as annotated in Carroll's Kentucky Statutes, Sections 1599D to 1599D-9 inclusive.

§ 17. *Suction and Exhaust System Required upon Polishing and Grinding Machinery:* The department shall have exclusive jurisdiction over and enforce the provisions of the Act requiring that grinding and buffing machinery be protected, Act of 1938, Chapter 124, Sections 2062F-1 to 2062F-6, inclusive, of Carroll's Kentucky Statutes.

§ 18. *Assignments of Claims:* The commissioner and representatives authorized by him in writing may take assignments off:

(a) Wage Claims, and incidental expense accounts and advances;

(b) Mechanic's and other liens of employees;

(c) Claims against employment agencies or their bondsmen;

(d) Claims for damages for misrepresentation of conditions of employment;

(e) Claims for unreturned bond money of employees;

(f) Claims for penalties for nonpayment of wages;

(g) Claims for the return of workmen's tools in the illegal possession of another person.

§ 19. *Validity of Assignments:* The commissioner and his representatives shall not be bound by any rule requiring the consent of the spouse of a married claimant, the filing of a lien for record before it is assigned, or prohibiting the

assignment of a claim for penalty before the claim has been incurred or any other technical rule with reference to the validity of assignment.

§ 20. *Jurisdiction in Prosecuting Claim Actions:* The department may prosecute actions for the collection of wages, penalties, and demands of persons who, in the judgment of the Commissioner, are financially unable to employ counsel, in cases in which the Commissioner believes such claims are valid and enforceable. The department may also prosecute actions for the return of workmen's tools which are in the illegal possession of another person.

§ 21. *Filing Preferred Claims and Liens:* The department may file preferred claims, mechanic's liens, and other liens of employees in the name of the commissioner, or his representative or in the names of the employees, whenever the facts have been investigated and found to support the claims. A statement that such facts have been found shall be alleged in the preferred claim or lien if it is filed in the name of the commissioner, or his representative.

§ 22. *Department May Join Claims:* The department may join various claimants in one preferred claim or lien as well as list them with the date regarding their claims in an exhibit and join them, in case of suit, in one cause of action where no valid reason exists for making separate causes of action for each individual employee.

§ 23. *Limitation of Cost:* When a civil action is brought by the department, no court cost of any nature shall be payable by the department. Any sheriff or constable requested by the commissioner or his representative shall serve the summons in the action upon any person within his jurisdiction or levy an attachment, garnishment, or execution in the action upon the property of any defendent without cost to the department except for keeper's age fees and storage charges.

The sheriff or constable shall specify when the summons or process is returned, what cost he would ordinarily have

been entitled to for such service, and such costs and the other regular court costs which would have accrued if the action was not by the department shall be made a part of any judgment recovered by the department and shall be paid by the department if sufficient money is collected over and above the wages or demands actually due the claimants.

§ 24. *Payment of Wages:* (a) The term "wage" includes all amounts for labor performed by employees of every discription, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

(b) The term "labor" includes labor, work, or service whether rendered or performed under contract, sub-contract, partnership, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

(c) If an employer discharges an employee, the wages earned and unpaid for labor at the time of discharge are due and payable immediately.

(d) If an employee not having a written contract for a definite period quits his employment, his wages shall become due and payable not later than forty-eight hours thereafter, unless the employee has given seventy-two hours previous notice of his intention to quit, in which case the employee is entitled to his wages at the time of quitting.

(e) If any employer willfully fails to pay without abatement or reduction, in accordance with this section, any wages of an employee who is discharged or who quits shall continue as a penalty from the due date thereof at the same rate until paid, or until action therefor is commenced; but such wage shall not continue for more than thirty days. No employee who secrets or absents himself to avoid payment to him, or who refuses to receive the payment when fully tendered to him, including any penalty then accrued under this section, shall be entitled to any benefit under this section for the time during which he so avoids payment. Suit may be filed for such penalties at any time before the expiration of the statute of

limitations on an action for the wages from which the penalties arise.

§ 25. *Repayment of Wages to Employer:* (a) It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.

(b) It shall be unlawful, in case of any wage agreement arrived at through collective bargaining, either willfully or unlawfully or with intent to defraud an employee, a competitor, or any other person, to withhold from said employee any part of the wage agreed upon. The provisions of this section shall in no way make it unlawful for an employer to withhold or divert any portion of an employee's wages when the employer is required or empowered to do so by State or Federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deductions from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute. The violation of this section shall be deemed a misdemeanor, punishable by a fine of not exceeding $300.00.

§ 26. *One Day of Rest in Seven:* Every person employed in any occupation of labor is entitled to one day's rest therefrom in seven. "A day's rest" applies to all situations whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time. No employer of labor shall cause his employees to work more than six days in seven, provided, however, this shall not include private home domestic work or farming. Employers requiring their employees to work seven days, or part of seven days in any one week shall compensate such employees therefor on the seventh day or Sunday at the rate of double the wage rate paid on other days. Any employer who fails or refuses to pay such penalty wage shall be deemed guilty of a misdemeanor punishable by a fine of not less than $25 nor more than $200.

§ 27. *Jurisdiction Over Places of Employment to Prevent Accidents:* To insure proper sanitation and for guarding against and minimizing fire hazards, personal injuries and occupational diseases in places of employment there is hereby conferred upon the department the authority, jurisdiction and supervision to make, amend and repeal safety standards and issue orders requiring the places of employment be maintained in a safe and sanitary condition; for the purpose of promulgation of safety standards, supervision and enforcement thereof is hereby established "The Kentucky Industrial Safety Board," consisting of the commissioner and two members representing industry and two members representing labor and such members shall be appointed by the Governor from a list of prospective members recommended by bone fide associations representative of industry and labor. Such industry and labor representatives appointed to the Board shall receive their actual expenses and transportation while on duty with the Board.

The provisions of this Act shall not apply to mining operations which are inspected and supervised by the Department of Mines and Minerals.

§ 28. *Definitions.* When used in connection with the sections of this Act relating to safety the following terms shall apply:

(a) The term "safe" and "safety" as applied to an employment or a place of employment shall mean such freedom from danger to the life or safety of employees as the nature of the employment reasonably permits.

(b) "Safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

(c) "Order" means any decision, rule, regulations, direction, requirement, or standard of The Kentucky Industrial Safety Board, or any other determination arrived at or made by the said Board.

§ 29. *Safe Work Places—Duty of Employer:* (a) Every employer shall furnish employment and a place of employment which are safe for the employees therein.

(b) Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment safe. Every employer shall do every other thing reasonably necessary to protect the life and safety of employees.

(c) No person shall remove, displace, damage, destroy, or carry off any safety device, safeguard, notice, or warning, furnished for use in any employment or place of employment; interfere with the use of any method or process adopted for the protection of any employee, including himself, in employment, or place of employment.

§ 30. *Hearings and Orders:* To effectuate the provisions of Sections 27 and 29, the Kentucky Industrial Safety Board, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise may:

(a) Declare and prescribe what safety devices, safeguards, or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe.

(b) Fix reasonable standards and prescribe, modify, and enforce reasonable orders for the adoption, installation, use, maintenance, and operation of reasonably uniform safety devices, safeguards, and other means or methods of protection, which are necessary to carry out the law relative to the protection of the life and safety of employees in employments and places of employment.

(c) Fix and order reasonable standards for the construction, repair and maintenance of places of employment necessary to make them safe.

(d) Require the performance of any other act which the protection of the life and safety of the employees in employment and places of employment reasonably demands.

§ 31. *Court Order to Restrain Use of Dangerous Machinery or Practices:* (a) If the condition of any employment or place of employment or the operation of any machine, device, apparatus, or equipment constitutes a serious menace to the lives or safety of persons about it, the Commissioner may apply to the Circuit Court of the judicial district in which such place of employment, machine, device, apparatus, or equipment is situated, for an injunction restraining the use or operation thereof until such condition is corrected and the order of The Kentucky Industrial Safety Board is complied with.

(b) The application to the Circuit Court accompanied by affidavit showing that such place of employment, machine, device, apparatus, or equipment is being operated in violation of a safety order of The Kentucky Industrial Safety Board, and that such use or operation constitutes a menace to the life or safety of any person employed thereabout and accompanied by a copy of the order applicable thereto is a sufficient prima facie showing to warrant, in the discretion of the court, the immediate granting of a temporary restraining order. No bond shall be required from the department as a prerequisite to the granting of any restraining order.

(c) When in the opinion of The Kentucky Industrial Safety Board a place of employment, machine, device, apparatus, or equipment or any part thereof is in a dangerous condition or it is not properly guarded or is dangerously placed, the use thereof shall be prohibited by The Kentucky Industrial Safety Board, and a notice to that effect shall be attached thereto. Such notice shall not be removed except by an authorized representative of the Commissioner, nor until the place of employment, machine, device, apparatus, or equipment is made safe and the required safeguards or safety appliances or devices are provided.

(d) Every person who, after such notice is attached as hereinabove provided, uses or operates any such place of employment, machine, device, apparatus, or equipment before it is made safe and the required safeguards or safety appliances or devices are provided, or who defaces, destroys or removes any such notice without the authority of the Commissioner shall be deemed guilty of a misdemeanor.

§ 32. *Rehearings and Judicial Review:* Exclusive jurisdiction is hereby conferred upon the court of appeals to review all orders, rules, regulations, findings and decisions made and issued by The Kentucky Industrial Safety Board within time and in the manner hereinafter set forth:

At any time within sixty days after the service of any final order, any person aggrieved thereby or otherwise affected, may petition for a rehearing upon any of the following grounds and upon no other: (1) that The Kentucky Industrial Safety Board acted without or in excess of its powers; (2) that the order or decision was procured by fraud; (3) that the order, decision, rule, or regulation is unreasonable.

§ 33. *Public Policy Re Employee-Employer Relations:* In the interpretation and application of this Act in respect to the provisions dealing with labor disputes, it is hereby declared: Negotiation of terms and conditions of labor should result from voluntary agreement between employer and employees. Governmental authority has permitted and encouraged employers to organize in the corporate and other forms of capital control. In dealing with such employers, the individual unorganized worker is helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment. Therefore it is necessary that the individual workman have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of em-

ployers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, hence it is hereby declared to be the public policy of this Commonwealth to encourage the practice and procedure of collective bargaining in employee-employer relations.

§ 34. *Definitions Applying to Employer-Employee Relations:* (a) The term "employee" as used in this Act in respect to employee-employer relations is broadened in its meaning to include any employee, and shall not be limited to the employees of a particular employer, unless the provisions of this Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed in the domestic service of any person in the home of such person, or any person in the home of such person, or any individual employed by his parent or spouse.

(b) The term "representative" as used in this Act means and includes any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any labor organization which by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members or otherwise, denies a person or persons membership in its organization on account of race, creed or color.

(c) The term "labor dispute" as used in this Act means and includes any controversy concerning (1) terms, tenure or conditions of employment, or concerning (2) the association or representation of persons in negotiating, fixing, main-

taining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relations of employer and employee.

§ 35. *Promise Respecting Affiliation With Labor Organization:* Every promise made after enactment of this Act between any employee or prospective employee and his employer, prospective employer or any other person is contrary to public policy if either party thereto promises any of the following:

(a) To join or to remain a member of a labor organization or to join or remain a member of an employer organization.

(b) Not to join or not to remain a member of a labor organization or of an employer organization.

(c) To withdraw from an employment relation in the event that he joins or remains a member of a labor organization or of an employer organization.

Such promise shall not afford any basis for the granting of legal or equitable relief by any court against a party to such promise, or against any other person who advises, urges, or induces, without fraud or violence or threat thereof, either party thereto to act in disregard of such promise.

Any person or agent or officer thereof who coerces or compels any person to enter into an agreement, written or verbal, not to join or become a member of any labor organization, as a condition of securing employment or continuing in the employment of any such person shall be deemed guilty of a misdemeanor.

§ 36. *Rules and Regulations.* The Commissioner shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this Act as affects relations between employer and employee subject to the provisions of Sections 33 to 58 of this Act. Such rules and regulations shall be effective upon publication in the manner in which the Commissioner shall prescribe.

§ 37. *Rights of Employees:* It is hereby declared, employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

§ 38. *Unfair Labor Practices:* It is hereby declared an unfair labor practice and no employer shall:

(a) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed under this Act.

(b) Dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it; provided, that subject to rules and regulations made and published by the Commissioner pursuant to this Act, an employee shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(c) Discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, however, that nothing in this Act, or in any agreement approved or prescribed, thereunder, or in any other statute of this Commonwealth, shall preclude an employer from making an agreement with a labor organization "not established, maintained, or assisted by any action defined in this section as an unfair labor practice" to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in Section 39 of this Act, in the appropriative collective bargaining unit covered by such agreement when made.

(d) Discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

(e) Refuse to bargain collectively with the representatives of his employees, subject to the provisions of this Act.

(f) Maintain or to participate in the maintenance of any blacklist for the purpose of discouraging membership in any labor organization or to discriminate against the membership of any such organization. For the purposes of this Act, the term "blacklist" is hereby defined to mean the written or oral communication, directly and indirectly, by any means whatsoever, by one employer to another, of the name, discription or other means of identification of any person for the purpose of enabling such employer to discriminate in regard to hire or tenure of employement or any term or condition of employment against any member or members of any labor organization.

(g) Close, or cease operation of, temporarily or permanently, any factory, plant, mine or other place of employment for the purpose of avoiding bargaining collectively with the representatives of his employees.

§ 39. *Representatives and Elections:* (a) Representatives designated or elected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment; provided, that any individual employee or a group of employees shall have the right at any time to present grievances to their employer.

§ 40. *Appropriate Unit for Collective Bargaining:* The Commissioner shall decide in each case whether, in order to assure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise effectuate the policies of this Act, the unit appropriate for the purpose of collective bargaining shall be the employer, craft unit, or subdivision thereof.

§ 41. *Ascertainment of Representatives:* Whenever a question arises concerning the representation of employees,

Commissioner may investigate such controversy and certify to the parties in writing, the name or names of the representatives who have been designated or selected. In any such investigation, the Commissioner shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under section 46 of this Act or otherwise, and may take a secret ballot of employees, or utilize any other suitable method to ascertain such representatives. Provided, however, that no labor organization which is dominated by the employer, or with the organization or administration of which he has interfered, or to which he has contributed financial or other support, or any member of any such organization shall be certified by the Commissioner as such representatives.

§ 42. *Procedure for Judicial Review of Election Orders:* Whenever an order of the Commissioner made pursuant to Section 45 is based in whole or in part upon facts certified following an investigation pursuant to said Section, and there is a petition for the enforcement or review of such order, such certification and the record of such investigation shall be included in the order, such certification and the record required to be filed under Sections 43 or 44 and thereupon the decree of the court enforcing, modifying, or setting aside in whole or in part the order of the Commissioner shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

§ 43. *Prevention of Unfair Labor Practices:* The Commissioner is empowered as hereinafter provided, to prevent any person from engaging in any unfair labor practice listed in Section 30 of this Act. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that have been or may be established by agreement, law, or otherwise.

§ 44. *Issuance of Complaints and Hearings Thereon:* Whenever it is charged that any person has engaged in or is

engaging in any such unfair labor practice, the Commissioner or the duly qualified representative thereof shall have authority to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Commissioner or the duly qualified representative thereof, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the Commissioner or representative conducting the hearing at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint. In the discretion of the Commissioner or his representative conducting the hearing, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

§ 45. *Issuance of Cease and Desist Orders:* The testimony taken at the hearing shall be reduced to writing and filed with the Department. The Commissioner upon notice may take further testimony or hear argument. If upon all the testimony taken the Commissioner shall determine that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, the Commissioner shall state his findings of fact and issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reports from time to time showing the extent to which the order has been complied with. If upon all the testimony the Commissioner shall be of the opinion that the person or persons named in the complaint has not engaged

in or is not engaging in any such unfair labor practice, then the Commissioner shall make its findings of fact and shall issue an order dismissing the complaint.

§ 46. *Modification of Commissioner's Orders:* Until a transcript of the record in a case shall have been filed in a court, as hereinabove provided, the Commissioner may at any time, upon reasonable notice and in such manner as he shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by him.

§ 47. *Judicial Review:* The Commissioner shall have power to petition the Circuit Court of any county wherein the unfair labor practice in question occurred or wherein any person charged with the commission of any unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the Commissioner. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commissioner. No objection that has not been urged before the Commissioner, or his representative, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commissioner as to facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satis-

faction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence at the hearing before the Commissioner or his representatives, the court may order such additional evidence to be taken before the Commissioner or his representative, and to be made a part of the transcript. The Commissioner may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and shall file his recommendations, if any, for the modification or setting aside of his original order. The jurisdiction of the Circuit Court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Court of Appeals or appeal by either party irrespective of the nature of the decree of judgment or the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeals to the Court of Appeals and the record so certified shall contain all that was before the Circuit Court.

§ 48. *Review of Commissioner's Orders:* Any person aggrieved by a final order of the Commissioner granting or denying in whole or in part the relief sought may obtain a review of such order in the Circuit Court of any county where the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business by filing in such court a written petition praying that the order of the Commissioner be modified or set aside. A copy of such petition shall be forthwith served upon the Commissioner, and the Commissioner shall file in the court a transcript of the entire record in the proceeding, certified by the Commissioner, including the pleadings and testimony and order of the Commissioner. Upon such filing, the court shall proceed in the same manner as in the

case of an application by the Commissioner under Section 47 and shall have the same exclusive jurisdiction to grant to the Commissioner such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, so setting aside in whole or in part the order of the Commissioner; and the findings of the Commissioner as to the facts, if supported by evidence, shall in like manner be conclusive.

§ 49. *Stay of Commissioner's Orders:* The commencement of proceedings under Sections 47 and 48 shall not, unless specifically ordered by the court, operate as a stay of the Commissioner's order.

§ 50. *Equity Jurisdiction:* When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, or enforcing as so modified or setting aside in whole or in part an order of the Commissioner, as provided in this Section, the jurisdiction of courts sitting in equity shall not be limited by acts pertaining to equity jurisdiction of courts.

§ 51. *Hearing Upon Petitions Filed Under This Act:* Petitions filed under this Act shall be heard expeditiously, and if possible within ten days after they have been docketed.

§ 52. *Investigatory Powers:* For the purpose of all hearings and investigations, which, in the opinion of the Commissioner, are necessary and proper for the exercise of the powers vested in it by Sections 33 to 51 inclusive:

(a) Securing Evidence—Witnesses: The Commissioner and his duly authorized representatives shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation in question. The Commissioner and duly authorized representatives shall have the power to issue

subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Commissioner or his representative conducting the hearing or investigation. The Commissioner, and his representatives for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Depositions: If any witness resides outside of the Commonwealth, or through illness or other cause is unable to testify before the Commissioner or his representative conducting the hearing or investigation, his or her testimony or deposition may be taken within or without this Commonwealth in such manner and such form as the Commissioner or his representative conducting the hearing may by special order or general rule prescribe.

(c) Refusal to Obey Subpoenas: In case of contumacy or refusal to obey a subpoena issued to any person, the Circuit Court of any county within the jurisdiction of which the inquiry is carried on or with the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commissioner or his representative, there to produce evidence if so desired, or there to give testimony concerning the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(d) Immunity: No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the Commissioner, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty of forfeiture; but no individual shall be prosecuted or subjected to any penalty or for-

feiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(e) Service of Processes: Complaints, orders, and other process and papers of the Commissioner and his representatives, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the name setting fourth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commissioner or his representatives, shall be paid the same fees and mileage that are paid witnesses in the courts of this Commonwealth, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid from like services in the Courts of this Commonwealth.

(f) Where Process May Be Served: All process of any court to which application may be made under this Act may be served in the county wherein the defendant or other person required to be served resides or may be found.

(g) The several departments, Commissions, divisions, anthorities, boards, bureaus, agencies, and offices, of the Commonwealth, or any political subdivision or agency thereof, shall furnish the Commissioner, upon his request, all records, papers, and information in their possession relating to any matter before the Commissioner.

§ 53. *Limitations:* Nothing in this Act shall be construed as to interfere with, impede or diminish in any way the right of employees to strike.

§ 54. *Exclusive Jurisdiction to Commissioner:* Exclusive jurisdiction is hereby vested in the Commissioner and it shall be his duty to investigate and handle without delay all complaints growing out of labor disputes and no court, nor any judge or judges thereof, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of a labor dispute until the Commissioner shall have had an opportunity to properly investigate and control the labor dispute or disputes in question, and it shall be construed that a minimum of ten days shall be required by the Commissioner to properly investigate and control any labor dispute.

§ 55. *Duty of Compliance with Laws Before Injunction:* No court, nor any judge or judges thereof, shall issue a restraining order or temporary or permanent injunction to any complainent who has failed to plead and prove (a) compliance with all obligations imposed by the Commonwealth or Federal Law which are involved in the labor dispute in question; (b) that he had made every reasonable effort to settle such dispute (1) by negotation, (2) with the aid of every avaialable agency for mediation and voluntary arbitration provided for by Commonwealth or Federal Law, and (3) the aid of any agency or mediation or voluntary arbitration provided for by agreement between any complainant and any person sought to be enjoined.

§ *Penalties:* Any person who shall willfully resiste, prevent, impede, or interfere with any member of the Department or any of its agents in the performance of duties pursuant to Section 33 to 56 inclusive shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not less than $100 nor more than $1,000 or by imprisonment for not more than one year, or both.

§ 57. *Solicitation of Employees by Misrepresentation Prohibited:* No person, or agent or officer thereof, directly

or indirectly, shall influence, persuade, or engage any person to change from one place to another in this Commonwealth, or from any place outside to any place within the Commonwealth or from any place within the Commonwealth to any place outside, for the purpose of working in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning either:

(a) The kind, character, or existence of such work;

(b) The length of time such work will last, or the compensation therefor;

(c) The sanitary or housing conditions relating to or surrounding the work;

(d) The existence or non existence of any strike, lockout, or other labor dispute affecting it and pending between the proposed employer and the persons then or last engaged in the performance of the labor for which the employee is sought.

Any person, or agent or officer thereof, who violates this Section shall be deemed guilty of a misdemeanor, punishable by a fine of not less than $25 nor more than $500 or imprisonment for not more than six months in the county jail, or both.

In addition to such criminal penalty, any person, or agent or officer thereof who violates this section is liable to the party aggrieved, in a civil action, for double damages resulting from such misrepresentations. Such civil action may be brought by an aggrieved person or his assigns or successors in interest, without first establishing any criminal liability.

§ 58. *Advertising for Employees During Labor Trouble:* If any person during the continuance of a strike, lockout, or other labor trouble among his employees, or among the employees of the person for whom he is acting, advertises for employees in newspapers, by posters, or otherwise, or solicits

persons to work for him or the person for whom he is acting, in the place of strikes, he shall plainly and explicitly mention in such advertisements oral or written solicitations that a strike, lockout, or other labor disturbance exists. The person inserting any such advertisement in a newspaper, on a poster, or otherwise shall insert in such advertisement his own name and, if he is representing another, the name of the person he is representing and at whose direction and under whose authority he is inserting the advertisement. The appearance of this name in connection with such advertisement is prima facie evidence as to the person responsible for the advertisement.

Any person, or agent or officer thereof, who violates this section shall be deemed guilty of a misdemeanor, punishable by a fine of not less than $25 nor more than $250.

§ 59. *Unlawful Use of Union Cards:* Any person who willfully uses the card of any labor union to obtain aid, assistance, or employment, unless entitled to use such card under the rules and regulations of a labor union within this Commonwealth, shall be deemed guilty of a misdemeanor.

§ 60. *Apprenticeship Council; Duties and Powers:* To further the interest and training in manual and industrial arts; to assist minors find suitable employment by which they shall learn a trade or some particular specialized skillful occupation; to provide for the teaching and improvement of minors in the technics and craftmanship of the trade or occupation in which they may become engaged; and, to in all other ways desirable and available promote the well being, knowledge and skill of young workers engaged in trade and industry so that they shall become competent skillful workers, thus contributing to the general welfare of the Community, state and industry, there is hereby established, "The Kentucky Apprenticeship Council". Said Council shall be composed of three representatives each from employer and

employee organizations, respectively, and one representative of the general public, each of whom shall be appointed by the Governor for a term of three years each. The Commissioner and the State official in charge of trade and industrial education, shall also be members of the Council. The Chairman shall be elected by vote of the Apprenticeship Council. Each member of the Council shall receive his actual and necessary expenses incurred in attendance at the meetings of the Council.

The Apprenticeship Council shall meet at the call of the Commissioner and shall aid him in formulating policies for the effective administration of this division.

The Apprenticeship Council shall establish standards for minimum wages, maximum hours, working conditions and training program for apprentice agreements; shall issue such rules and regulations as may be necessary to carry out the intent and purpose of this division; shall foster, promote, protect, and develop the welfare of the apprentice and industry, improve the working conditions of apprentices, and advance their opportunities for profitable employment.

§ 61. *Punishment for Offensives:* Except in cases where a different punishment is prescribed, every offense declared by this Act to be a misdemeanor is punishable by a fine not exceeding $300.00, or imprisonment in the county jail not exceeding six months, or by both fine and imprisonment in the discretion of the court.

§ 62. *Validity Construction of Act:* The sections and provisions of this Act shall be liberally construed as being for and in behalf of the general welfare of workers engaged in places of employment. Should any section or provision of this Act, or the application thereof to any person or circumstances, be held invalid the remainder of the Act, and the application of its provisions to other persons or circumstances, shall not be affected thereby.

§ 63. *Duty to Enforce:* It is hereby made the function and duty of the Commissioner upon complaint or upon his own motion investigate and prosecute violations of the provisions of this Act and of the laws of the Commonwealth retricting or regulating or providing for the safety and well being of workers in places of employment.

§ 64. *Conflicting Acts Subrogated:* All Acts or parts of Acts heretofore enacted in conflict with the provisions of this Act are hereby subrogated to the provisions of this Act.

By Mr. Hunt.

H. B. 204. An Act to prohibit the use and sale of air or B.B. Guns and providing a penalty.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That, it shall be unlawful to sell, barter, trade or have in possession, what is commonly known as air or B.B. guns. Any person violating this section shall be guilty of misdemeanor and upon conviction be fined not less than five nor more than fifty ($50.00) dollars.

By Mr. Stewart.

H. B. 205. An Act to amend section 57 of Chapter 107 of the Acts of 1938, compiled as section 1954d-57 of Baldwin's Kentucky Statute Service, May 1938, relating to game and fish.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 57 of Chapter 107 of the Acts of 1938, compiled

as section 1954-57 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

Any person who takes or has in his possession in this State any wild animal protected by this Act, except during the open season for the particular species provided herein shall be guilty of a misdemeanor and upon conviction therefor before a Court of competent jurisdiction shall be fined not less than fifteen ($15.00) dollars and not more than one hundred ($100.00) dollars for each offense. Said open seasons are as follows:

Mink, Oppossum, Raccoon, Red Fox, Skunk and Muskrat, November 1st to December 31st.

Otter and Beaver, no open season.

Squirrel, September 1st to September 30th.

Rabbits, November 24th, to January 9th.

By Mr. Vansant.

H. B. 206. AN ACT to require all persons whose duty it is to certify and/or transmit to the Secretary of State election returns to do so the day the count is completed, and fixing a penalty for failure to so certify.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That any person whose duty it now is by law to certify and/or transmit to the Secretary of State any election returns shall do so forthwith and on the same day after the canvassing is completed and the results certified. This Act shall apply to both primary and general election results.

Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and shall be fined not less than $200 nor more than $500 and the costs of the prosecution.

By Mr. Barry.

H. B. 207. AN ACT providing for definition of terms used; providing for system of fixing prevailing rates of wages and establishing a legal work day and a legal work week on public works; providing the method of fixing prevailing rates of wages required in public works, contracts and of public authorities; providing the duty of contractors and public authorities to pay the prevailing rate of wages fixed; providing for enforcement, assistance and penalty for the violation of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Definitions; (a) The term "public authority", as used in this Act shall mean any officer, board, or commission of the Commonwealth, or any political subdivision thereof, or any county or any incorporated city or subdivision or department thereof, or any institution supported in whole or in part by public funds and this Act shall apply to expenditures of such institutions made in whole or in part from public funds, authorized by law to enter into a contract for the construction of a public works or to construct the same by the direct employment of labor.

(b) The term "construction", as used in this Act, shall mean any construction, reconstruction, improvement, enlargement, alteration or repair of any public works fairly estimated to cost more than three hundred dollars.

(c) The term "public works" as used in this Act, shall mean to include all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works and all other structures or works constructed by the Commonwealth or any political subdivision thereof, or county or subdivision thereof, or incorporated city or subdivision thereof, except mainte-

nance work on roads under supervision of State Highway Commission or county authorities.

(d) The term "locality", as used in this Act, shall mean the county wherein the physical work upon any public works is being performed.

§ 2. Prevailing Wages Provided: It shall be the duty of any public authority authorized to contract for or construct with its own forces for public works before advertising for bids or undertaking such construction with its own forces, to have the Department of Industrial Relations ascertain and determine the prevailing rates of wages of mechanics and laborers for the class of work called for by the public works, in the locality where the work is to be performed; and such schedule of wages shall be attached to and made a part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. The minimum rate of wages for common laborers, on work coming under the jurisdiction of the State Highway Department, is in accordance with Section 3 of this Act. This Act shall not apply to public works in any case where the Federal Government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided the Federal Government or any of its agencies prescribe predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvement.

§ 3. Method Determining Prevailing Wages: The wages to be paid for a legal day's work, as hereinbefore prescribed in Section 2 of this Act, to laborers, workmen or mechanics upon such public works shall not be less than wages paid in the same trade or occupation in the locality where such public work is being performed, under collective agreements or understanding between bona fide organizations of labor and employers, at the date such contract is made, and in the event there be no such agreement or understanding, then not less

than the prevailing rate of wages to be determined as provided in Section 2 of this Act. Serving laborers, helpers, assistants and apprentices shall not be classified as common labor and shall be paid not less than the wages in the locality as a result of collective agreement or understanding, and if no such agreement of understanding exists, shall be paid not less than the prevailing rate of wages to be ascertained as provided in Section 2 of this Act. Where contracts are not awarded or construction undertaken within ninety days from the date of the establishment of the prevailing rate of wages as provided in Section 2 of this Act, there shall be a redetermination of the prevailing rate of wages before the contract is awarded.

§ 4. Duty of Contractors and Public Authority to Pay Prevailing Rate of Wages: (a) In all cases where any public authority shall fix a prevailing rate or rates of wages as herein provided under the terms of this Act, and the work is done by contract, the contract executed between the public authority and the successful bidder shall contain a provision requiring the successful bidder and all of his subcontractors to pay a rate of wages so fixed. It shall be the duty of the successful bidder and all his subcontractors to strictly comply with such provisions of the contract.

(b) Where a public authority constructs a public works with its own forces, it shall be the duty of such authority to pay a rate or rates which shall not be less than the rate or rates of wages so fixed as herein provided under the terms of this Act. Any mechanic or laborer paid less than such rate or rates by any public authority shall have a right of action against such public authority for the difference between the fixed rate of wages and the amount paid to him, and in addition thereto, a penalty equal in amount to such difference.

(c) All contractors and subcontractors required by the terms of this Act and the action of any public authority to

pay not less than the prevailing rate or rates of wages shall make a full payment of such wages in lawful money of the United States, without any deductions for food, sleeping accommodations, transportation, use of small tools or any other thing of any kind or description. The above provisions shall not apply where the employer and employee enter into an agreement in writing at the beginning of any term of employment covering deductions for food, sleeping accommodations, or any similar item, provided such agreement be submitted by the employer to the public authority fixing the rate or rates of wages be approved by such public authority as fair and reasonable. All contractors or subcontractors falling within or affected by the terms of this Act shall keep full and accurate payroll records covering all disbursements of wages to their employees to which they are required to pay not less than the prevailing rate or rates of wages. Such payroll records shall not be destroyed or removed from the Commonwealth for a period of one year following the completion of the improvement in connection with which the same are made.

§ 5. Legal Work Day and Legal Work Week on Public Works: It shall be the duty of every public authority authorized to contract for public works before advertising for bids to include with the schedule of wages as herein provided by the terms of this Act, that no laborer or mechanic shall be required to work more than eight hours in one calendar day, which shall constitute a legal day's work, nor more than forty hours in one week, which shall constitute a legal work week, except in cases of emergency caused by fire, flood or damage to life or property. The limitation of work hours as provided in this section, shall be made part of the specifications for the work and shall be printed on bid blanks where the work is done by contract. No laborer or mechanic shall be required to work more than eight hours in any one calendar day, nor more than forty hours in any one week, except in cases of emergency caused by fire, flood, or damage to life or property

on the construction of public works where a public authority constructs such an improvement with its own forces. Any laborer or mechanic worked in excess of eight hours per day and forty hours per week except in cases of emergency as herein provided shall be paid double the prevailing rate or rates of wages as fixed under the terms of this Act for all overtime worked, and any laborer or mechanic shall have a right of action for the collection of overtime wages worked for either a contractor or subcontractor or public authority. The determination of exception provided in this section or when an emergency exists, shall be made jointly by the public authority letting the contract and the Department of Industrial Relations, and their decisions shall determine whether or not the laborer or mechanic shall be paid double wages for overtime.

§ 6. Enforcement Assistance: Any laborer or mechanic employed on public works within the terms of this Act may file a complaint of the violation of the provisions of this Act and of the failure to pay the prevailing rate or rates of wages fixed and of working in excess of the legal work day and work week provided by this Act with the Department of Industrial Relations, and it shall be the duty of this Department to assist the laborer or mechanic in the collection of claims of wages due him. It is hereby further provided that the Department of Industrial Relations shall assist to the fullest extent in the administration and enforcement of this Act. A laborer or worker may by civil action in a court of competent jurisdiction recover any sums due him as the result of the failure of his employer to comply with the terms of this Act.

§ 7. Penalty: Any contractor or subcontractor who shall violate the wage and work hours provision provided in contracts under the provisions of this Act, or shall suffer, permit or require any employee to work for less than the rate of wages so fixed, shall be fined not less than $15.00 or more than $100.00. Each day this act is violated shall constitute a

separate offense, and the violation as concerns each individual laborer or worker shall constitute a separate offense.

By Mr. Stuart.

H. Res. 27. RESOLUTION authorizing Lon Sutherland to file and prosecute suit against the Commonwealth of Kentucky and the Department of Highways of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on February 21, 1939, Lon Sutherland was driving his automobile on the Shady Lane Highway in Woodford County about seven (7) miles from Frankfort and there then occurred a collision between his car and a truck belonging to the Department of Highways of the Commonwealth of Kentucky, being truck No. 2454, and

WHEREAS, this collision resulted in considerable damage to the car of Mr. Sutherland which he was forced to have repaired; now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Lon Sutherland be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways for the sum of ..... as damages resulting from said collision, said suit to be brought in the Franklin Circuit Court.

§ 2. Either party to the suit may appeal from any judgment which may be entered therein as in any other civil suit and the case may be settled and adjusted with the consent and approval of the Attorney General of the Commonwealth of Kentucky in the same way as any other civil suit.

§ 3. In the event any judgment in said action is recovered by Lon Sutherland, or same is compromised or settled,

the judgments or amounts agreed on in compromise, if any, shall be paid out of the general fund in the manner prescribed by law.

By Mr. Stacy.

H. Res. 28. A RESOLUTION appropriating from the General Fund of the State of Kentucky a sum not to exceed Twenty Five Dollars ($25.00) for the payment of a claim of W. R. Tipton, Deputy Sheriff of Montgomery County for expenses incurred by him under orders of the Montgomery Circuit Court in returning from the State of Ohio, Robert Sexton and delivering him to the jailer of Montgomery County on a charge of armed robbery.

Said resolution is as follows, viz.:

WHEREAS, at the November term of the Montgomery Circuit Court Robert Sexton was indicted for wilful murder, and the Sheriff's office of Montgomery County received information that Robert Sexton could be apprehended at Georgetown, Ohio, W. R. Tipton, Deputy Sheriff went to Georgetown, Ohio, took the defendant, Robert Sexton, into custody and delivered him to the jailer of Montgomery, where he was subsequently tried and sentenced to twenty-one years in the penitentiary at Eddyville, Kentucky; and

WHEREAS, the said Court allowed W. R. Tipton an expense account, which account is shown on the Cricuit Clerk's certified list of claims, and which account has been rejected by the State of Kentucky;

Be it Resolved by the House of Representatives of the Commonwealth of Kentucky:

That there be and is hereby appropriated from the General Fund of the State of Kentucky not more than Twenty-Five Dollars ($25.00) for the purpose of paying the said W. R. Tipton for said services rendered.

That the Commissioner of Finance (Auditor) be and he is hereby authorized to draw a warrant for not more than the Twenty-Five Dollars ($25.00) payable to W. R. Tipton from said General Fund.

By Mr. H. T. Baker.

H. Res. 29. A RESOLUTION authorizing W. M. Jackson and his wife, Mrs. Lizzie T. Jackson, respectively to sue the Commonwealth of Kentucky, the State Highway Commission, either or both of them.

Said resolution is as follows, viz.:

WHEREAS, W. M. Jackson and his wife, Mrs. Lizzie T. Jackson, of Campbellsville, Ky., allege that on August 5th, 1938, they were each severely injured and the automobile of said W. M. Jackson was wrecked while said W. M. Jackson was driving his said automobile on State Highway No. 55, in Taylor County, Ky., about one-half mile north from the city limit of Campbellsville, and

WHEREAS, it is alleged that at the time and place of said accident the car causing the injuries and damages herein was a State Highway Patrol car and was then and there being operated by a State Highway patrolman in the discharge of his official duties and said patrolman was then and there grossly intoxicated and carelessly ran his car head-on into W. M. Jackson's car and said patrolman being then and there entirely on the wrong side of the road and which Highway patrolman shortly thereafter in the Circuit Court of Taylor County, Ky., entered a plea of guilty to operating said Highway patrol car on said occasion while he was intoxicated and said patrolman being without the official bond required by law,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That said W. M. Jackson and his wife, Lizzie T. Jackson

are hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Department or either or both of them in the Taylor Circuit Court of Taylor County, Ky., for such damages as they suffered respectively by reason of any negligence or carelessness or wrong doing of the Commonwealth of Kentucky or the State Highway Commission, their agents or employees.

The amount of recovery in said suits shall not exceed in the aggregate six thousand five hundred dollars, ($6,500.00), and whatever judgments are recovered therein for personal injuries, property damage, medical attention and any other damages to which said W. M. Jackson and his wife, Mrs. Lizzie T. Jackson may be entitled, whether by litigation or compromise, shall be paid by the State Treasurer out of the general fund on warrant of the Department of Finance.

Either party to said suits may appeal from any judgment herein as in any other civil suit and the cases may be settled or compromised with the consent or approval of the Attorney General of Kentucky in the same way as any other civil suit.

By Mr. Stuart.

H. B. 208. AN ACT to repeal, amend and re-enact section 2739j-71 of Carroll's Kentucky Statutes, 1936 Edition, relating to the transportation of passengers or property in motor vehicles for hire and specifically referring to amendments, transfers, and consolidations of certificates of public necessity and convenience, issued in this Commonwealth.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 2739j-71, of Corroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed and re-enacted so as, when re-enacted, it shall read as follows:

§ 1. *Amendments of Certificates:* Application for

amendments of certificates or permits may be made as applications for the original certificates, and may be granted in the same manner as provided for certificates.

§ 2. *Transfer of Certificates; Approval of Director of Motor Transportation:* Any certificate held, owned or obtained by any person may be sold, assigned leased or transferred or inherited as any other property on the approval of the Director. If the Director refuses to approve of the transfer of any certificate, he must give his reason in writing therefor, and same shall be kept of record from which ruling appeal may be taken as provided for in this Act.

§ 3. *When Two or More Certificates May Be Consolidated Into One:* When two or more certificates held by an operator shall provide for routes that connect and form one continuous route between two termini cities, the said certificates may be consolidated and incorporated into one certificate provided the length of the routes specified in the several certificates do not exceed a total distance of more than forty (40) miles. An operator holding two or more such certificates may by application duly filed with the Director of Motor Tronsportation request the Director to consolidate the several certificates into one, and the Director upon the receipt of such application may forthwith, without notice to competing lines or a hearing, cancel the several certificates previously held and may immediately issue a new certificate to the operator which may authorize the said operator to operate a common carrier motor vehicle, or vehicles, over the entire route which the several certificates provided for, and said new certificate may authorize the hauling of both through and local passengers in case of busses or through and local freight in case of trucks, over the entire route provided for in said new certificate even though the termini cities of said route are already being served by common carrier motor vehicles over a parallel route or routes.

Ordered that said bills and resolutions be printed and referred.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Jarboe of the Committee on Circuit Courts.

H. B. 95. An Act to change the time of holding the terms of circuit court in the 37th Judicial District.

H. B. 89. An Act to amend Sec. 965, Carroll's Kentucky Statutes, 1936 Edition, and changing the time of holding court in the 31st Judicial District composed of Floyd and Knott counties.

H. B. 50. An Act to amend Sec. 965 of Carroll's Kentucky Statutes, in so far as it relates to the time of holding the terms of Circuit Court in the 38th Judicial District.

H. B. 33. An Act amending and re-enacting Sec. 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision relating to the inadmissability of confession obtained by sweating.

Without an expression of opinion.

By Mr. Shehan of the Committee on Judiciary.

H. B. 107. An Act to amend and re-enact as amended, Sec. 110, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, relative to certain officers who are not permitted to practice law.

By Mr. Bosworth of the Committee on Codes of Practice.

H. B. 68. An Act to repeal subsec. 9 of Sec. 518 of the Civil Code of Practice of Kentucky.

H. B. 20. An Act to amend and re-enact Sec. 317, 326, 327, 328 of the Civil Code of Practice so as to permit the finding of Special Verdicts by Juries in addition to general or separate-general verdicts.

Without an expression of opinion.

H. B. 19. An Act to repeal Section 574 of the Code of Practice in Civil cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

Mr. Bronston of the Committee on Municipalities.

H. B. 88. An Act to amend and re-enact Sec. 3181 of Carroll's Kentucky Statutes, 1936 Edition.

Mr. Stuart of the Committee on Kentucky Statutes No. 1-A.

H. B. 29. An Act to require the payment of a fee to the Attorney General by each person required by law to register with the Attorney General as a lobbist or legislative agent; etc.

With a Committee Amendment thereto.

H. B. 63. An Act adopting as the law of the Commonwealth of Kentucky the Supplement to Carroll's Kentucky Statutes compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in April 1939 and October, 1939, and Known as Baldwin's Kentucky Statutes Service.

H. B. 64. An Act adopting as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky the Supplement to Carroll's Kentucky Codes Civil and Criminal

compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1939.

H. B. 98. An Act repealing and re-enacting Sec. 1 of Chapter 36 of the Acts of the General Assembly of 1938, and Section 7 of Chapter 106 of the Acts of the General Assembly of 1938, being subsec. 2739g-34 and 2739g-34a of Baldwin's Kentucky Statutes, 1938 Supplement, relating to driving a motor vehicle while intoxicated and prescribing penalty therefor.

Without an expression of opinion.

H. B. 179. An Act to amend and re-enact Sec. 1727, Carroll's Official Kentucky Statutes, 1936 Edition as revised by Baldwin's Kentucky Statutes Service, 1938 Supplement, which section is a part of Article 2, Chapter 47, relating to fees.

By Mr. Beard of the Committee on Fish and Game.

H. B. 86. An Act relating to fish and game and providing a method for raising additional funds for the purchase and propagation thereof etc.

By Mr. Fitzpatrick of the Committee on Public Health No. 1.

H. B. 104. An Act requiring serological blood tests for syphilis on pregnant women; providing for its administration and prescribing penalties for the violation thereof.

Without a Committee Amendment thereto.

By Mr. Smither of the Committee on Suffrage and Election.

H. B. 152. An Act amending Sec. 1459 Carroll's Kentucky Statutes, Baldwin's revision of 1936, being a part of

the laws enacted by the General Assembly in 1918, Chapter 37 at page 106, section 3 governing the publication, stating of the questions upon the ballot and submission of constitutional amendments for vote of the people, etc.

With the expression of opinion that said bills ought to pass with the exception of those specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Joe E. Robinson moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Mr. Robinson.

H. B. 209. An Act to establish a Kentucky Farm Tenancy Commission; to define its work; to provide for its conduct and expenses; and for other purposes.

Said bill is as follows, viz.:

WHEREAS, more than a third of Kentucky farm families are tenants or croppers; and,

WHEREAS, such tenancy appears to be increasing for the state and nation; and,

WHEREAS, soil erosion and exhaustion, low income and poverty, low health standards, illiteracy, decadence of the rural church and of the social life of the community usually follows; and,

WHEREAS, thoughtful and capable citizens, including landlords and farm tenants, have expressed their belief

that such problems should be studied and means sought for their solution; and,

WHEREAS, it is vital to the long-time welfare of the farm people, rural communities, and the state and nation, that ability, thrift, and the other necessary characteristics incident to attaining land ownership and improving tenancy be recognized; now, therefore

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby established a Kentucky Farm Tenancy Commission, to be composed of nine (9) members appointed by the Governor, one of whom shall be a bona fide resident of each congressional district. The member of the Commission shall receive no compensation for their services, but from the appropriation of one thousand dollars ($1,000) for each fiscal year provided in the General Appropriation Bill, shall be reimbursed for necessary travel expenses incident to attendance of meetings of the Commission. Included in the membership shall be three (3) farm-owners, three (3) tenants, and three (3) other persons. At least one (1) of the last three (3) shall be a land-owner who has formerly been a tenant. The Governor shall designate one (1) member as Chairman and another as Vice-Chairman.

§ 2. It shall be the duty of the Farm Tenancy Commission to investigate the entire problem of farm tenancy in Kentucky, with a view to encouraging home ownership; improving landlord-tenant relationships; considering recommendations to Congress with respect to the Bankhead-Jones Farm Tenant Act, or any other matter which members of the Commission may deem pertinent; and make such other general studies as bear on the farm tenancy problem. The Commission shall meet on call by the Chairman, or by a majority of its own membership.

§ 3. To facilitate the farm tenancy investigation, the

Commission is hereby authorized to seek the co-operation of such federal, state, and private agencies as may be possessed of data bearing on the agricultural land tenure problem, including the Farm Credit Administration, the Farm Security Administration, and the Bureau of Agricultural Economics of the United States Department of Agriculture; the College of Agriculture, Extension Service, and Experiment Station of the University of Kentucky; the Departments of Agriculture of other Kentucky colleges; the Kentucky State Department of Agriculture; and the Kentucky State Division of Vocational Education. These various state agencies are hereby authorized to co-operate as fully as their resources permit with the said Farm Tenancy Commission.

The Commission is authorized to select agents to represent it in aiding or promoting the interest of this Commonwealth in matters having to do with farm tenure or with the benefiting or protecting of the interests of agricultural land-owners and tenants in Kentucky, and recommend to the Governor such policies as may be beneficial to agriculture generally. The Commission shall have the service of the Research Director of the Legislative Council in formulating its report, and of the State Department of Agriculture in supplying stenographic, statistical, or clerical workers. Expenses of meetings and any other expenditures authorized by the Chairman of the Commission for the purposes herein set out shall be paid from the appropriation heretofore made on requisition of the Chairman, with the Commissioner of Agriculture, Labor, and Statistics shall countersign prior to disbursement, through the Department of Finance, as other disbursements are made. Any funds made available by agencies other than the state shall be paid to the Governor to be expended for research work that the Research Director of the Legislative Council may undertake pursuant to farm tenancy studies.

§ 4. The report of the Farm Tenancy Commission

to the Governor and the 1942 General Assembly shall be placed in the hands of the Governor and of the Legislative Council on or before October 1, 1941. The Commission may authorize publication of a summary or of other information bearing on its work.

By same.

H. B. 210. AN ACT repealing and re-enacting Section 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding officers in primary elections, and confining to bona fide candidates the written notice and designation of election officers, with procedure to determine same and providing penalties for wrongful interference with procedure.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1550-22, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, be and it is hereby repealed and re-enacted so that same when re-enacted shall read as follows, to-wit:—

Section 1550-22. Officers of election for the primary shall be appointed by the county board of election commissioners as provided by law in the case of the November elections: Provided, That the lists of names selected by the several party committees shall be submitted to said board not less than fifteen days before the holding of the primary and shall be open to inspection thereafter; and provided, that bona fide candidates before the primary shall be entitled, if they so desire, to unite regardless of party, in designating the names of persons to be appointed officers of election, under the rules hereinafter laid down. All designations of persons selected by said bona fide candidates for appointment shall be made by written notice to said board, delivered to any mem-

ber thereof, not later than twenty days before said primary. Any group of twenty-five per cent. (25%) of all such candidates before the primary shall be entitled to have appointed as an election officer one person in each precinct for which a name is so submitted. In cases where names are so designated for several precincts, the persons so designated shall be appointed in equal proportion to the offices of clerk, sheriff and judge in the different precincts. In like manner, fifty per cent. (50%) of all such candidates before the primary shall be entitled to designate two persons to be appointed officers of election in each precinct. In such cases one of the persons so designated shall be appointed clerk of the election in one-half of the precincts for which names are so designated. If seventy-five per cent. (75%) of all such candidates so unite they shall be entitled to designate three persons to be appointed officers of election in each precinct, and one of the persons so designated shall be appointed clerk of election in each of three-fourths of all precincts for which names are so designated; and all such candidates by so uniting shall be entitled to the appointment of four officers of election in each precinct for which names are thus designated.

In cases where such candidates unite in the selection of persons to be appointed officers of election, as herein provided, the lists of names submitted by the party committees shall be treated by the board of election commissioners as follows: If only one group of twenty-five per cent (25%) of such candidates unite in selecting one person to be appointed an officer of election in each precinct so designated, said board shall appoint only one officer of election for such precinct or precincts from the list submitted by the committee of that party whose candidates form a majority of the signers of such written designation. If the signers of such list are divided equally between the parties, then the lists of names submitted by each party committee shall have chosen from it only one name for an officer of election in every other precinct among those for which names are thus designated.

If two groups of twenty-five per cent. (25%) or one group of fifty per cent. (50%) of all such candidates so unite in designating persons to be appointed officers of election in one or more precincts, the remaining officers in such precincts, shall be selected equally from the lists of the several party committees. In the event that seventy-five per cent. (75%) of all such candidates unite to procure the appointment of election officers in one or more precincts, or if three groups of twenty-five per cent. (25%) of the candidates, or one group of fifty per cent. (50%) and another of twenty-five per cent. (25%) of such candidates submit names under the provisions of this section, the remaining officer of election in each of such precincts shall be chosen alternately from the lists of the different party committees.

All persons who are to act as election officers shall be appointed by said board in accordance with the foregoing provisions, and the list of officers of election with the office to which each person is appointed shall be made up and open to inspection by any candidate, not later than the noon on the Saturday preceding the day of the primary.

The duties herein provided shall be enforceable against said county board of election commissioners, on the petition of any candidate, by the writ of mandamus. Proceedings in such cases shall be instituted in the circuit court. The proceedings shall be summary and without delay, and the orders of the court shall be final and not appealable.

A "bona fide" candidate in this Act means one who is seeking nomination according to law, who honestly seeks the office for which he announces, who expects to make a campaign for the office and who is not supported by any group or faction who through the support of this candidate seeks to promote the welfare of another.

Any candidate or member of the County Election Commission may question the bona fides or good faith of any candidate by summary proceedings consisting of a motion

before the Circuit Court if in session, or Circuit Judge in vacation, of the district in which the county is located, upon three days' notice to the candidate whose good faith is questioned, which motion shall be tried summarily and without delay before said Court or Judge, and a hearing before said Judge shall be considered a special term for said purpose, and the proof may be heard orally and upon motion of either party may be officially reported; and in any action or proceeding to compel the County Election Commission to appoint election officers in accordance with any designation made by a group, or groups, of candidates as provided in this Act, the Circuit Judge presiding is hereby authorized and empowered to ascertain and determine whether any candidate whose name appears on a list of candidates for the purpose of designating election officers is a bona fide candidate.

In any action or proceeding authorized herein the burden of proof as to the bona fides of a candidate shall be on the party asserting or claiming such bona fides.

If the Court finds the candidate is not a bona fide candidate it must so order and certify same to the election commission and said candidate's name shall be stricken from the written notice and designation of election officers filed with said Commission as herein provided and not counted in the percentage provisions required herein, or may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and subject to a motion to set aside same in the Court of Appeals, which shall be heard by said Court or a Judge thereof as is provided by law for dissolving or granting injunctions, except that said motion must be made before said Court or Judge of the Court of Appeals within five days after the entry of the order in the Circuit Court and can be heard and tried upon the original papers and the order of the Appellate Court or Judge thereof shall be final.

If any candiate or person approach the Circuit Court or

a Judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him he shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty ($20.00) Dollars nor more than five hundred ($500.00) dollars, or imprisoned in the county jail not less than one nor more than six months, or both fined and imprisoned in the discretion of the Judge or jury trying the same, and may also be proceeded against for contempt.

By Same.

H. B. 211. AN ACT repealing and re-enacting Section 1550-6 Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, governing nominating papers, and their filing in a primary election, and further providing for penalties for false swearing in the notification and declaration and supporting affidavits.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1550-6, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, be and the same is hereby repealed and re-enacted so that same when re-enacted shall read as follows, to-wit:—

Section 1550-6. Any qualified elector who is a member of a party within the meaning of this Act, and who has affiliated with and supported the nominees of the party at whose hands he seeks the nomination, as defined elsewhere in this Act, shall have his name printed on the official ballot of his party for an office to which he is eligible in any primary held under the provisions of this Act, upon filing with proper officer at proper time, a notification and declaration, which notification and declaration, shall be in the following form, and shall be filled in as to all the requirements therein contained, and the declaration therein shall be subscribed and

sworn to by the person making same, before any officer qualified to administer an oath.

Said notification and declaration shall be in the following form:

Notification and Declaration

Of ..... for nomination to the office of ..... to ..... (county court clerk or secretary of state, as case may be). Commonwealth of Kentucky ..... County. For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ....(name of party) party, I ..... (name in full as desired on the ballot) do solemnly swear (or affirm), that I reside at No. ..... street, in the city of ..... state of Kentucky, and that I am a registered ..... (party) voter in ..... precinct, city of ..... that I believe in the principles of said ..... (name of party) party, and intend to support its principles and policies, and vote for its nominees at the coming general election, and that I have affiliated with such party and that I supported its nominees at the last general election, or was prevented from doing so by reason of ..... (state reason here); that if nominated as a candidate of said ..... at the said ensuing election, I will accept such nomination and not withdraw; that I will not knowingly violate any election law or any law defining or relating to corrupt and fraudulent practice in campaigns or elections in this State, and if finally elected, I will qualify for said office.

I further solemnly swear (or affirm) that I am a bona fide candidate for said nomination and I am honestly seeking the office for which this notice and declaration is filed, and that

I expect to make a campaign for said nomination, and am not running in the interest of any other candidate, group or faction or to promote any interest other than my own. .....
..... (Signature of candidate.)

Subscribed and sworn to before me by .....
this ..... day of ....., 19.....
..... (Signature of officer.) .....
..... (Title of officer.)

The said candidate shall at the time of filing his notification and declaration file therewith an affidavit of two reputable electors, members of the same party to which the applicant belongs, which affidavit shall be in the following form, and filled out so as to meet all the requirements indicated therein:

Commonwealth of Kentucky, ...County

"We, ... and .....,
do solemnly swear (or affirm), that we are qualified electors and members of the ..... (name of party), and have affiliated with said party, and supported its nominees at the last general election; that we are residents and legal voters of the city of .....,
county of ..... State of Kentucky; that we are personally acquainted with .....
..... who files the hereto attached notification and declaration, and we know him to be a discreet citizen, and a member of the ..... party, and that to the best of our knowledge and belief, he has affiliated with and supported said party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration, and we believe him to be qualified to fill the office of .....;
and that he is a bona fide candidate and not running in the

interest of any other candidate, group or faction or to promote any interest other than his own.

.....

.....

(Signature of Affiants)

Subscribed and sworn to before me by ..... and ..... this ..... day of ..... 19 .....

.....

(Signature of officer.)

.....

(Title of officer.)

Said application and declaration, and the accompanying affidavits may be on the same or separate sheets, but shall be filed together and at the same time, when so filed with the proper officer, it shall be the duty of said officer, upon the candidate's compliance with the requirements of this Act as to payment of fees as elsewhere provided, to have printed the applicant's name on the ballot, according to the primary election law, under the penalties provided therein.

No applicant or candidate for any public office in the State of Kentucky who shall have filed his application or declaration under said section and who shall have been defeated for the nomination for any office thereunder, shall be eligible or permitted to run for the same office for which he was a candidate under said section at any general election in this state to be held during the same year in which his said application and declaration was so filed and in which he was a candidate in any primary election under said Act.

Provided, that the provisions of Section 1550-6 of this Act shall not apply to candidates for judge of the court of appeals and for judges of the circuit court.

For such judicial positions any eligible person may become or be proposed as a candidate for nomination by any

and every political party having a ticket to be voted for in the district for which the said office is to be filled, but said persons shall not be required to seek the said nomination or nominations nor to make a declaration of party loyalty or support, and as a requirement for such nomination shall not be required to have registered as affiliated with any political party or parties, or to have registered at all as a voter.

Such nomination or nominations may be proposed for such eligible candidate either by resolution of the proper committee, or by the application to two reputable electors, of any political party whose nomination is sought. Such resolution or application shall be filed with the proper officer at the proper time, as provided by law for other nomination papers. The name of no candidate shall be placed upon the ballot if, before the preparation of the ballots, such proposed candidate shall file with the officer with whom the nomination papers were filed, an objection thereto in writing, signed and sworn to by such proposed candidate.

The names of the successful candidates in the primary for nomination or nominations for such judicial offices shall appear on the ballot at the regular election under the device of as many political parties as may have nominated such candidate. He may appear thereon by petition of voters, or otherwise as may be required by law, and at such election shall be entitled to the total of the votes which he receives on such ballot or ballots as aforesaid.

Before any successful candidates for such judicial nomination or nominations shall be given his certificate or certificates of nomination, he shall file with the clerk of the county court, in which he resides, a statement that during the campaign for the said nomination or nominations he did not, and while a candidate for the said office will not knowingly violate any election law or any law defining or relating to corrupt and fraudulent practice in campaigns or elections in this state, and if elected will qualify for said office.

Provided, that nothing in this law shall prevent any party from offering a candidate for election under such party's device, if the governing authorities of such party in the district affected so order.

Any person who shall willfully make a false statement in the notification and declaration or supporting affidavits provided for herein shall be guilty of false swearing and upon conviction confined in the penitentiary from one to five years.

By same.

H. B. 212. An Act repealing and re-enacting Sec. 1550-23, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, regarding the appointment of challengers and inspectors in primary elections.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1550-23, Carroll's Kentucky Statutes, 1936 Baldwin's Revised Edition, be and it is hereby repealed and re-enacted so that same when re-enacted shall read as follows: to-wit:—

§ 1550-23. Each political party shall be entitled to have not exceeding two challengers and two inspectors at each precinct during the holding of said primary election, same to be appointed and to serve under the following conditions:

Any group of bona fide candidates as defined and determined in the preceding section (§1550-22) of the same political party equal to twenty-five per cent. (25%) of all the candidates for such party to be voted for in a county (including state, district and all other candidates) in any primary may recommend to the county committee or governing authority of such party for the county a list of persons whom they desire to have appointed as challengers and inspectors in each

precinct in such county. If more than two such lists are furnished said committee or governing authority as herein provided, said committee or governing authority shall in making appointments of challengers and inspectors so alternate between the several lists so furnished as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one challenger and one inspector for any precinct from any one list. The list of challengers and inspectors herein provided shall be presented to the chairman or secretary of the party committee of the county not less than seven days before the date on which the primary is to be held; and said committee or the chairman thereof shall make the appointments and certify to same at least four days before the date on which said primary is held. Said appointment of challengers and inspectors shall be certified in all respects as challengers and inspectors at regular elections, except as otherwise herein provided, and said challenger and inspector shall be subject to the same penalties and possess the same rights and privileges as challengers and inspectors, at general elections: provided, that the challengers of one political party shall not be entitled to challenge those persons who offer to vote for candidates of any other party in such primary; and the inspectors of one political party shall not be permitted to examine or inspect the ballots or returns of any other political party than the one for which he was appointed. The provisions of this section shall be enforceable against the chairman of the political party committees in the same manner as provided in the last preceding section of this act.

Ordered that said bills be printed and referred.

Mr. Joe Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 161. AN ACT to prohibit the taking, enticing,

assisting to escape, or the encouraging to escape of lawfully committed inmates from the State Hospitals for the Insane and from the Feeble-Minded Institute; declaring such taking, assisting, enticing, or encouraging a felony; providing the punishment therefor.

Said motion was agreed to.

Thereupon the House took up for immediate consideration, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any person who shall take a lawfully committed inmate from a State Hospital for the Insane or from the Feeble-Minded Institute without the consent of the superintendent of any such institution or who shall entice, assist, or encourage any such inmate to escape from any such state institution shall be deemed guilty of a felony and upon conviction in the circuit court in the county in which any such escape was effected shall be punished by confinement in the State Penitentiary for a period of not less than one or more than two years.

All laws or parts of laws that conflict herewith are hereby repealed.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Van Y. Greene	B. W. Porter
J. Everett Bach	Ralph C. Hamilton	H. O. Porter
H. T. Baker	T. H. Hickey	Kleber F. Price
G. M. Ballard	Clyde S. Howard	Hobart Rayburn
Wm. T. Beard	Chester Huffines	Thomas Rigdon
Alvis S. Bennett	John M. Hunnicutt	Joe E. Robinson
Rell Bevins	R. L. Jackson	Lyman Roll
Sterling B. Blake	J. B. Jarboe, Jr.	Jack Savage
J. F. Bosworth	Chas. X. Jones	Carl Scheben
W. S. Brim	John S. Juett	Leon J. Shaikun
C. J. Bronston	William K. King	Ray O. Shehan
Gus A. Brooks	W. A. Lamkin, Jr.	Faust Y. Simpson
Randolph A. Brown	Robert E. Lee	Bruce Sloan
Haynes Carman	Harvey D. Leonard	Otto Smither
Charles M. Carter	Edward Leslie	G. C. Springate
James W. Chapman	W. Paul Lyon	J. Claude Stacy
John Coulter	C. C. May	Ray J. Stengel
John H. Cox	T. B. McConnell	Henry Stewart
Pink G. Curd	Frank C. McElwain	W. St. Clair Stuart
W. Q. Daniel	E. Hayes McMakin	Otis C. Thomas
F. E. Daugherty	Norris McPherson	Erna E. Tyra
Forest C. Easley	Stanley C. Moebus	J. Wood Vance
Harry W. Ennis	John B. Mollette	Walter R. Vansant
R. R. Ernst	Davis Moore	S. J. Wagner
Carlos Fallis	J. Lee Moore	Porter Wallace
Cecil Florence	Joe T. Morgan	Henry Ward
Wayne Freeman	C. Homer Neikirk	H. L. Waterfield
Eugene Gough	Carl D. Perkins	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Perkins moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 162. An Act providing for the transfer of feeble-minded and/or insane prisoners to State Hospitals and/or Feeble Minded Institutes.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. A new section of the statutes is created to be numbered section 263b-12a and to read as follows:

263b-12a. *Transfer of Feeble-minded and/or Insane Prisoners to State Hospitals and/or Feeble-Minded Institute.* Whenever an inmate of any penal and correctional institution (the Houses of Reform included) is reported by the warden of that institution to the Director of the Division of Hospitals and Mental Hygiene as being so mentally defective or mentally ill that he can not be properly treated with the facilities at the disposal of the physician, it shall be the duty of the Director of the Division of Hospitals and Mental Hygiene to have a mental examination conducted on such inmate, such examination to be conducted either by the Director himself or some physician of the regular State Hospital service delegated by the Director for that purpose. If this examination reveals that the inmate is in need of observation and treatment on account of mental deficiency or mental illness, and that such observation and treatment can not be properly carried out in the institution in which he is incarcerated, the Director of the Division of Hospitals and Mental Hygiene may then order his transfer to a State hospital or institution for feeble-minded, where he shall remain until the superintendent of the hospital which received him advises the Director of the Division of Hospitals and Mental Hygiene that his condition has so far improved that he may be returned to the institution from which he came without special jeopardy to his mental health or the discipline and conduct of that institution. The Director shall then authorize his return. If the sentence

expires during his stay in the mental institution and he is still insane or feeble-minded and fit subject for commitment to a State institution, the superintendent shall notify the Circuit Court which sentenced him to the penal institution, accompanying such notification with a petition for a lunacy inquest. During the time of a prisoner's stay in a State hospital or institute for the feeble-minded his legal status as a prisoner shall remain unchanged until the termination of his sentence, as provided by the criminal codes governing the discharge, parole, commutation of sentence and pardoning of persons sentenced to penal and correctional institutions. The superintendent shall have no authority to parole him, grant him permission to visit relatives or friends outside the institution or discharge him, and the time which such a prisoner spends in a State hospital or institute for the feeble-minded, shall be counted as an integral part of his prison sentence and must not be subtracted therefrom.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Douglas T. Bolling	S. B. Chrisman
J. Everett Bach	J. F. Bosworth	John Coulter
H. T. Baker	W. S. Brim	John H. Cox
G. M. Ballard	C. J. Bronston	Pink G. Curd
Robert E. Barry	Gus A. Brooks	Forest C. Easley
Wm. T. Beard	Randolph A. Brown	D. E. Edwards
Alvis S. Bennett	Haynes Carman	Harry W. Ennis
Rell Bevins	Charles M. Carter	R. R. Ernst
Sterling B. Blake	James W. Chapman	Carlos Fallis

Cecil Florence	Frank C. McElwain	Faust Y. Simpson
Wayne Freeman	E. Hayes McMakin	Otto Smither
Van Y. Greene	Norris McPherson	E. T. Sparks
Ralph C. Hamilton	G. Sam Milam	G. C. Springate
C. L. Hammons	Stanley C. Moebus	J. Claude Stacy
T. H. Hickey	John B. Mollette	Ray J. Stengel
Chester Huffines	Davis Moore	Henry Stewart
John M. Hunnicutt	J. Lee Moore	W. St. Clair Stuart
W. H. Hunt	Joe T. Morgan	Otis C. Thomas
R. L. Jackson	Carl D. Perkins	Erna E. Tyra
J. B. Jarboe, Jr.	B. W. Porter	J. Wood Vance
Chas. X. Jones	H. O. Porter	Walter R. Vansant
John S. Juett	Kleber F. Price	S. J. Wagner
William K. King	Hobart Rayburn	Porter Wallace
W. A. Lamkin, Jr.	Thomas Rigdon	Harry F. Walters
Robert E. Lee	Lyman Roll	Henry Ward
Harvey D. Leonard	Jack Savage	H. L. Waterfield
Edward Leslie	Carl Scheben	Otis White
W. Paul Lyon	Leon J. Shaikun	
C. C. May	Ray O. Shehan	—85

Mr. Freeman moved that the vote by which said bill was passed be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Freeman moved that said bill be laid on the Clerk's desk.

Mr. Joe E. Robinson moved that the House do now recess until one-thirty o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one-thirty o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Freeman moved that the House take up for consideration from the Clerk's desk, a bill entitled:

H. B. 162. (For title see Journal of to-day ante)

Mr. Freeman moved that the third reading of said bill be expunged from the Journal of the House.

Said motion was agreed to and without objection it was ordered that the Journal of the House be expunged as to the third reading of said bill.

Thereupon Mr. Freeman offered the following amendment to said bill, viz.:

Amend H. B. 162 on page 1, section 1, line 7 by striking out the word "feble" and inserting in lieu therefor the word "feeble"

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Alvis S. Bennett	W. S. Brim
J. Everett Bach	Rell Bevins	C. J. Bronston
H. T. Baker	Sterling B. Blake	Gus A. Brooks
G. M. Ballard	Douglas T. Bolling	Randolph A. Brown
Robert E. Barry	J. F. Bosworth	Haynes Carman

Charles M. Carter	J. B. Jarboe, Jr.	Hobart Rayburn
James W. Chapman	Chas. X. Jones	Thomas Rigdon
S. B. Chrisman	John S. Juett	Lyman Roll
John Coulter	William K. King	Jack Savage
John H. Cox	W. A. Lamkin, Jr.	Carl Scheben
Pink G. Curd	Robert E. Lee	Leon J. Shaikun
W. Q. Daniel	Harvey D. Leonard	Ray O. Shehan
F. E. Daugherty	Edward Leslie	Faust Y. Simpson
Stanley S. Dickson	W. Paul Lyon	Bruce Sloan
Forest C. Easley	C. C. May	Otto Smither
R. R. Ernst	T. B. McConnell	E. T. Sparks
Carlos Fallis	Frank C. McElwain	G. C. Springate
T. P. Fitzpatrick	E. Hayes McMakin	J. Claude Stacy
Cecil Florence	Norris McPherson	Ray J. Stengel
Wayne Freeman	G. Sam Milam	Henry Stewart
Eugene Gough	Stanley C. Moebus	W. St. Clair Stuart
Van Y. Greene	John B. Mollette	Erna E. Tyra
Ralph C. Hamilton	Davis Moore	J. Wood Vance
C. L. Hammons	J. Lee Moore	Walter R. Vansant
T. H. Hickey	Joe T. Morgan	S. J. Wagner
Clyde S. Howard	C. Homer Neikirk	Porter Wallace
Chester Huffines	Carl D. Perkins	Harry F. Walters
John M. Hunnicutt	B. W. Porter	Henry Ward
W. H. Hunt	H. O. Porter	H. L. Waterfield
R. L. Jackson	Kleber F. Price	Otis White

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Resolved that the title thereof be as aforesaid.

Mr. Freeman moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 37. An Act to repeal section 574 and to amend sub-

section 1 of section 575 of the Civil Code of Practice, Carroll's 1938 Edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 574 of the Civil Code of Practice, Carroll's 1938 edition, is repealed.

§ 2. Subsection 1. of section 575 of the Civil Code of Practice, Carroll's 1938 edition, is amended to read as follows:

In the cases mentioned in sections 571 and 573, the interrogatories, together with notice of filing given pursuant to sections 624 to 633, shall be filed in the clerk's office. The caption shall state the name and place of residence of the witness. Until a commission to take the deposition is issued, the party notified may file cross-interrogatories.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Douglas T. Bolling	John H. Cox
J. Everett Bach	J. F. Bosworth	Pink G. Curd
H. T. Baker	W. S. Brim	W. Q. Daniel
G. M. Ballard	C. J. Bronston	F. E. Daugherty
Robert E. Barry	Gus A. Brooks	Stanley S. Dickson
Wm. T. Beard	Randolph A. Brown	Forest C. Easley
Alvis S. Bennett	Haynes Carman	Harry W. Ennis
Rell Bevins	S. B. Chrisman	R. R. Ernst
Sterling B. Blake	John Coulter	Carlos Fallis

T. P. Fitzpatrick	C. C. May	Otto Smither
Cecil Florence	Frank C. McElwain	E. T. Sparks
Wayne Freeman	E. Hayes McMakin	G. C. Springate
Eugene Gough	Norris McPherson	J. Claude Stacy
Van Y. Greene	Stanley C. Moebus	Ray J. Stengel
Ralph C. Hamilton	John B. Mollette	Henry Stewart
T. H. Hickey	Davis Moore	W. St. Clair Stuart
Clyde S. Howard	Joe T. Morgan	T. M. Swope
Chester Huffines	C. Homer Neikirk	Otis C. Thomas
John M. Hunnicutt	Carl D. Perkins	Erna E. Tyra
W. H. Hunt	B. W. Porter	J. Wood Vance
R. L. Jackson	H. O. Porter	Walter R. Vansant
Chas. X. Jones	Hobart Rayburn	S. J. Wagner
John S. Juett	Joe E. Robinson	Porter Wallace
William K. King	Lyman Roll	Harry F. Walters
W. A. Lamkin, Jr.	Jack Savage	Henry Ward
Robert E. Lee	Carl Scheben	H. L. Waterfield
Harvey D. Leonard	Leon J. Shaikun	Otis White
Edward Leslie	Ray O. Shehan	
W. Paul Lyon	Faust Y. Simpson	—85

Resolved that the title thereof be as aforesaid.

Mr. H. O. Porter moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had concurred in resolutions which orginated in this House, entitled:

H. Res. 24. Resolution memorializing the life and death of the Honorable J. C. W. Beckham.

H. Res. 30. Resolution providing for a Joint Session for the hearing on the Soil Conservation Bill.

With an amendment thereto as proposed and adopted by the Senate.

(For Resolution see Journal of to-day ante)

Said amendment as proposed and adopted by the Senate is as follows, viz.:

Amend H. Res. 30 by inserting in the last line of the resolution after the word "opponents" the following words "and proponents"

Said amendment was then concurred in.

Said resolution was then adopted, as amended.

Mr. Hunnicutt moved that the vote by which said resolution was adopted, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled resolutions of the following titles, viz.:

H. Res. 2. Joint Resolution providing for the purchase of the "Legislative Digest"

S. Res. 5. Joint Resolution providing for additional compensation for the officers and employees of the Senate and House.

Thereupon all other business was suspended, said resolutions were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the resolution which originated in the Senate, be delivered to the Enrolling Clerk of the Senate.

Ordered that the Enrolling Clerk of this House deliver the resolution which originated in this House to the Senate.

Mr. Davis moore moved that when the House adjourn to-day, it adjourn out of respect to the memory of The Honorable Tom C. Pettit of Bardwell, Kentucky, a former member of this House.

Said motion was agreed to.

Mr. Swope moved that the privilege of the floor be extended to Mr. C. J. Sipple of Clark county.

Said motion was agreed to.

Mr. Hunnicutt moved that the privilege of the floor be extended to Mrs. A. Addams and Mrs. J. Morgan Derr of Frankfort, Kentucky.

Said motion was agreed to.

Mr. Joe E. Robinson presented the following motion, viz.:

The Legislative Council having assembled on January 14, 1939, and among other things having instructed its Research Director to make a study of chain store regulation for the 1940 General Assembly;

The Research Director on January 6, 1940, having submitted a study entitled "Chain Store Regulation" which has been examined; now therefore

I move that the House of Representatives adopt this report as a part of the findings of this body, and that it be spread upon the Journal of the House.

Said motion was agreed to.

Said report of the Legislative Council is as follows, viz.:

CHAIN STORE REGULATION

The Kentucky Legislature enacted a license tax graduated according to the volume of gross sales in 1930. This law was held constitutional by the Kentucky Court of Appeals in *Moore* v. *State Board of Charities and Corrections,* 239 Ky. 729; 40 S.W. (2d) 349 (1931). In this opinion the Court recognized the fact that large-scale retailing had certain clear-cut economic advantages.[1] However, the Supreme Court of the United States held this Kentucky law unconstitutional for the reason that chain methods of merchandising were not taken into account. The classification of sales for the purpose of the tax was arbitrary and violated the equal protection clause of the United States Constitution.[2]

Thereafter, in 1934, the General Assembly passed a chain store tax modeled after the Indiana statute.[3] In the Kentucky law, graduated license fees on retail merchants were made

[1] ". . . unified and superior management, manifesting itself in lower operating costs, greater efficiency in purchasing, buying for cash and thus obtaining cash discounts, warehousing goods, and distributing from single warehouse to numerous stores, thus involving less liability for ad valorem taxes (since, as in the case of chain stores, there is no need for such a stock in any one store to be on hand on the assessment date as is required in an independent store), pricing and sales policy, greater rapidity of turn-over, less advertising costs per store or department—all are those which the large retailer enjoys to his profit and which the small retailer does not enjoy. These advantages manifest themselves in both gross and net profits. Thus the proof establishes that the ratio of net gain either to sales or to capital invested is very much higher in the case of large-scale merchants than in that of the small-scale ones whether the large-scale ones be of the chain store type or of the department store type, or even of the specialty store type." *Moore* v. *State Board of Charities and Corrections,* 239 Ky. 729; 40 S.W. (2d) 349 (1931) p. 353.

[2] *Stewart Dry Goods Company* v. *Lewis,* 294 U. S. 550; 55 S. Ct. 525 (1935). See also 287 U.S. 9; 53 S.Ct. 68 (1933) and 21 A.B.A. Jour. 294. The Stewart case stated in the District Court of the United States. 7 F. Supp. 438 (1933).

[3] Indiana, *Acts,* 1928, c. 207. In 1933 rates were raised. Indiana, *Acts,* 1933, c. 271.

dependent upon the number of stores operated within the state. The rate structure was amended by being increased in 1936;[4] and single unit stores were made exempt in 1938.[5] In 1939 the Kentucky Court of Appeals held this law unconstitutional.[6] Graduated license taxes similar to the one imposed by the Kentucky act of 1934 have been held valid in many jurisdictions in recent years.[7]

IN OTHER STATES

The first chain store licenses on record were imposed in 1927 in Georgia, Maryland, North Carolina and Wisconsin.

[4] Kentucky, *Acts*, 1936, (3rd) ex. sess., c. 11, Sec. 5.

[5] Kentucky, *Acts*, 1938, c. 66, Sec. 1.

[6] *Great Atlantic & Pacific Tea Co.* v. *Kentucky Tax Commission*, 278 Ky. 367; 128 S. W. (2d) 581 (1939). In reversing an order of the Franklin Circuit Court sustaining a demurrer to the plaintiff's petition, the Court held that a tax created according to the number of stores in a chain was an arbitrary and unreasonable basis or classification for taxes and that section 5 of the 1934 Act was unconstitutional on this ground. However, the Court stated that the question as to whether the classification could be justified as an exercise of police power was not involved since the statute was purely a revenue measure. Only two sections of the Constitution of Kentucky were regarded as having a particular bearing. The pertinent provision in section 171 recites: "Taxes shall be levied and collected for public purposes only and shall be uniform upon all property of the same class subject to taxation within the territorial limits of the authority levying the tax; and all taxes shall be levied and collected by general laws." As the chain store tax was not a tax on property, this provision had no application. Section 181 states that "the general assembly may, by general laws only, provide for the payment of license fees on franchises, stock used for breeding purposes, the various trades, occupations, and professions, or a special or excise tax. . . ." Two judges dissented from the majority opinion on that score. No question of due process or equal protection under the Federal Constitution was involved in the decision.

[7] *State Tax Commissioners* v. *Jackson*, 283 U.S. 527; 51 S.Ct. 540 (1931): *Fox* vs. *Standard Oil Co.*, 294 U.S. 87; 55 S.Ct. 333 (1935): *Southern Grocery Stores* v. *South Carolina Tax Commission*, 55 F. (2d) 931 (1934): *C. F. Smith Co.* v. *Fitzgerald*, 270 Mich. 659, 259 N.W. 352 (1935); *Safeway Stores* v. *City of Portland*, 149 Ore. 581, 42 P. (2d) 162 (1935). The imposition of a higher license fee on each store in a chain in excess of one was held valid in *Great Atlantic & Pacific Tea Co.* v. *Maxwell*, 199 N.C. 433, 154 S.E. 838 (1930); and in *Fredericksburg* v. *Sanitary Grocery Co.*, 168 Va.

In 1939 twenty states had chain store tax laws.[8] Fourteen of the twenty states impose a graduated license fee levied at a flat sum upon each additional store. Three states use the numerical unit license, i.e., the total number of stores operated in the state is first determined, and then the fee in the class in which the total falls is applied to every store in the state. Two states, Louisiana and South Dakota, use a graduated license based upon the number of stores in national operation. Tennessee taxes on the basis of floor space. The states in which chain store taxes are no longer operative are Arizona, California, Kentucky, Maine, Pennsylvania, New Mexico, Vermont and Minnesota. The high point of the movement was in 1933 when thirteen states enacted bills. Municipalities and the federal government have likewise considered chain store regulation.[9] In two states a referendum vote has been taken. Colorado in 1934 accepted the chain-taxing bill, and California in 1936 set the law aside.

57, 190 S.E. 318 (1937). In *Great Atlantic & Pacific Tea Co.* v. *Grosjean*, 301 U.S. 412, 57 S.Ct. 772 (1937), it was held that a state tax graduated on basis of the number of stores in the chain, whether operated in the state or not, does not arbitrarily and unreasonably discriminate. In *J. C. Penney Co.* v. *Diefendorf*, 54 Idaho 374, 32 P. (2d) 784 (1934), a statute imposing the same amount on each store, the tax graduated and dependent upon the number of stores in the state under same ownership was upheld. A similar tax in Florida was upheld in *State ex rel. Lane Drug Stores* v. *Simpson*, 122 Fla. 582, 166 So. 227 (1935). The only other state that appears to share the Kentucky view is Georgia, and it is not at all certain that Georgia would hold the present classification unreasonable. In *Douglas* v. *Southern Georgia Grocery Co.*, 180 Ga. 519, 179 S.E. 768 (1935), a city ordinance was held discriminatory for imposing a tax on the business of operating one of a chain of five or more grocery stores and not taxing where the chain numbered less than five stores. North Carolina, which refused to sustain a chain store license tax in *Great Atlantic & Pacific Co.* v. *Doughton*, 196 N. C. 145, 144 S.E. 701 (1928), ($50 on each store in chains of six or more), upheld a $50 tax on each store in excess of one in *Great Atlantic & Pacific Tea Co.* v. *Maxwell*, 199 N.C. 433, 154 S.E. 838 (1930).

[8] Alabama, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Montana, North Carolina, South Carolina, South Dakota, Tennessee, Texas, West Virginia and Wisconsin.

[9] See Maurice W. Lee, *Anti-Chain Store Tax Legislation*, Studies in Business Administration, the University of Chicago Press, Vol. 9, No. 4, c. 2.

CASE AGAINST LICENSING

Whether it is in the public interest to regulate chain stores involves the balancing of several factors. The argument against special regulation of chain store merchandising rests on opposition to penalizing efficiency.[10] Dr. Edgar Z. Palmer of the College of Commerce of the University of Kentucky found chain store grocery prices to average about 16 per cent below independent grocery store prices in 1930.[11] In 1933, 1935, 1936, and 1939 Dr. Palmer found such prices averaged approximately 90 per cent of the independent store prices. While the consistency of the results is some evidence that the differential is typical of the usual situation, certain limitations of these studies should be noted: meats were not included; with the exception of drug store prices, the evidence is limited to grocery stores; and, with the exception of drug stores, the studies are limited to Lexington. However, studies made by the Federal Trade Commission[12] in other cities throughout the country confirm the result that Dr. Palmer found as to chain grocery prices in Kentucky.

Another argument against special regulation of chains in Kentucky is that the number of stores gives no evidence of large chains having economic advantages over small chains or, especially, individual stores.

CASE FOR LICENSING ABILITY TO PAY

In *Tax Commissioners* v. *Jackson*[13] the Supreme Court of the United States in upholding the Indiana law enumerated at

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[10] John P. Nichols, *The Chain Store Tells Its Story*, Institute of Distribution, Inc., New York City (1940), c. 3.

[11] *Find Chains in Lexington 14.2% Below Independents*, Chain Store Progress, Vol. 2, No. 9 (September, 1930), p. 4.

[12] *Chain Stores: Final Report of the Chain Store Investigation*, Senate Document, No. 4, 74th Congress, First Session (1934), p. 29.

[13] 283 U.S. 527, 51 S.Ct. 540 (1931).

great length the points of difference between large chains and small chains and/or single unit stores:

> ". . . quantity buying, which involves the application of the mass process to distribution, comparable to the mass method used in production; buying for cash and obtaining the advantage of a cash discount; skill buying, so as to overbuy, and at the same time keep the stores stocked with products suitable in size, style and quality for the neighborhood customers who patronize them; warehousing of goods and distributing from a single warehouse to numerous stores; abundant supply of capital, whereby advantage may be taken of opportunities for establishment of new units; a pricing and sales policy different from that of the individual store involving slightly lower prices; a greater turn-over, and constant analysis of the turn-over to ascertain relative profits on varying items; unified, and therefore cheaper and better advertising for the entire chain in a given locality; standard forms of display for the promotion of sales; superior management and method; concentration of management in the special lines of goods handled by the chain; special accounting methods; standardization of store management, sales policies and goods sold. . . ."

It is a safe assumption that while a few of these differences do occur as between independent store operators, it is only the chains that posses them all in a marked degree. The Kentucky Court in *Moore* v. *State Board of Charities and Corrections*[14] has already held that such distinctions were a sufficient basis for a graduated sales tax apportioned upon the amount of gross sales per year.

FEDERAL TRADE COMMISSION FINDINGS

The Federal Trade Commission's findings are sufficient evidence to indicate the pronounced character of these dif-

[14] *Supra*, note 1, p. 353.

ferences so as to dispel any belief that these same points of difference appear between the owners of independent units. Among other things, the Federal Trade Commission found that chains concentrate their stores first where population is concentrated.[15] The chains have grown by internal expansion in lieu of acquisitions. This is particularly so of the Atlantic & Pacific Tea Company, the largest retail dealer in the world. Kroger Grocery & Baking Company and Safeway Stores were built up primarily by acquisitions. As grocery and meat chains have increased, such chains have shown a tendency to purchase a larger percentage of their products from manufacturers than from brokers and commission men.[16] Chains which engage in wholesaling operate about six times as many stores per chain as those which have no wholesale business.[17] While chain store systems are not monopolies under the Sherman Act, a much stronger showing of monopoly might be made in the case of particular chain companies.[18] The ability of chains to purchase goods at lower costs than independents and of large chains to purchase at lower prices than small chains is an outstanding feature of the growth and development of chain store merchandising.[19]

While evidence is inconclusive whether large chains undersell the smaller chains, chain store prices on comparable brand merchandize definitely average substantially lower than independent retailer prices.[20] This difference is less where the manufacturer delivers goods directly to retail store units.[21] Direct price competition may be carried to the limit in the case of chains whereas the resources of local independents are limited.[22] Price data indicates not only a high degree

[15] *Supra*, note 12, p. 5.
[16] *Ibid.*, p. 16.
[17] *Loc. cit.*
[18] *Ibid.*, p. 19.
[19] *Ibid.*, p. 24.
[20] *Ibid.*, p. 29.
[21] *Ibid.*. p. 31.
[22] *Ibid.*, p. 33.

of price variability between stores of the same chain in the same city but also between store and headquarters prices.[23] The inherent advantage here is in averaging.

Another chain merchandising advantage is to run price leaders at a price either below cost or at slightly above cost but below average profits. At times, prices are figured on a replacement cost so as to give the chain an advantage. Chain gross profits margins on private-brand items are definitely higher than on competing brands, while tending to sell at a price as low or lower than competing standard brands.[24]

Most independent dealers cannot compete successfully with the chains in newspaper advertising.[25] The ratio of advertising expenditures to sales falls consistently with increases in the size of the chains but the relative volume of advertising does not decrease.[26] The larger concerns set up buying agencies that enable concessions to be obtained from the producer. However, quantity prices must be distinguished from actual savings in management.[27] The amount of special discounts and allowances not appearing on the face of the invoice have been found to be present to a larger extent in the case of chains than in the case of wholesalers.[28]

"Advantages or disadvantages such as manifest themselves in profits, margins, quality of goods, services rendered, managerial efficiency and low overhead are purely economic in character. Under a competitive system such advantages or disadvantages are presumably not subject to removal by law, and it is to be expected that the type of distribution which gives the greater sum total of advantage to the consuming public will increasingly prevail."[29]

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[23] *Ibid.*, p. 37.
[24] *Ibid.*, p. 42.
[25] *Ibid.*, p. 44.
[26] *Ibid.*, p. 45.
[27] *Ibid.*, p. 53.
[28] *Ibid.*, p. 57.
[29] *Ibid.*, p. 66.

Among such economic factors the Federal Trade Commission found for sample grocery chains in certain cities that after eliminating special discounts and allowances, gross margins were less than those for independents and co-operative chains; at the same time total sales prices were less.[30] Sample studies of drug chains produced the same results. In thirty small towns rentals were more by 50 to 75 per cent and wages were less than those paid by independents.[31] Credit and store service were usually dispensed with by the chains as a general policy. Quality of goods was somewhat comparable in three other cities selected for study.

HARVARD UNIVERSITY STUDIES

The studies made and being published by the Bureau of Business Research of the Harvard Graduate School of Business Administration also warrant a finding that the chains with the larger number of retail outlets have a strong position that is not enjoyed by smaller chains and single unit stores. These studies, recognized by the Kentucky Court of Appeals in the Moore case, *supra,* to be the best so far available, show large chains to have more sales per store than small ones, and hence to enjoy a favorable position in so far as costs vary with the number of stores.[32] Also, large chains have a merchandise turn-over about 50 per cent above that of the small chains.[33]

The larger the chain, the less the taxes are per unit store —despite the fact that some of the taxes are heavier because the chain operates more stores.[34] Large chains also engage

[30] *Ibid.*, p. 69.

[31] *Ibid.*, p. 71.

[32] See Table I of *Appendix.*

[33] See Table II of *Appendix.* The *Census of Business*, 1937-38, shows clearly that chain store turn-over on the whole is above individual store turn-over.

[34] See Table III of *Appendix.* It is not evident that the lighter tax burden of the chains under the personal property tax is due either to the insufficiency of the personal property tax as a method of business taxation or to inadequacies of administration. *The Chain Store Tax*, Bulletin of the Twentieth Century Fund, No. I (1937).

in direct buying more than small chains, even though the small chains may engage in direct buying more than single unit stores.[35]

Consistently, salary and wage expense in relation to sales for chains of different sizes is less as the size of the chain increases.[36] If income taxes are deducted before the ratio of net gain to net worth is taken for small, medium and large chains, the ratio shows a consistent increase as the size of the chain increases.[37] In a similar manner, the ratio of net income to sales, with the exception of food chains, for the year 1934 shows the ratio to be higher as the chain increases in size. The fact that the operation of the Kroger Grocery & Baking Company over the years 1936 to 1938 shows a loss, is not to be confused with the superior income producing powers of chains such as the Great Atlantic & Pacific Tea Company, which made money during the same period. It is also to be noted that the amount of the Kroger deficit decreased.[38]

It is, therefore, to be concluded that large chains on the whole are in a superior position to small chains and that the same is true as between small chains and single unit stores. The amount and nature of systematic and organized control which the chains exercise over their stores is related directly to the number of stores.[39] The only difficulty in providing an equitable regulatory measure is in adjusting the measure to different distributions of stores in the several states.[40] Such a difficulty is due to the manner in which chains either concentrate in one state or spread out nationally and is not an

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[35] Federal Trade Commission, *Chain Stores*, 72nd Congress, First Session, Document No. 30, p. 39. See Table IV of *Appendix*.

[36] See Table V of *Appendix*.

[37] See Table VI of *Appendix*.

[38] *Moody's Industrials*, 1936, 1937, 1938. *The Great Atlantic & Pacific Tea Co.* v. *Kentucky Tax Commission*, Record, p. 48.

[39] Edgar H. Gault, *Control of the Retail Units of Chain Stores*, Michigan Business Studies, Volume 7, No. I, p. 90 (1935).

[40] See Lee, *supra*, note 9, c. 4.

inherent defect of basing the license upon the number of stores.

POLICE CONSIDERATIONS

Because of the chain method of conducting retail business, direct police costs needed to prevent theft, robbery and burglary may, and probably do, exceed the cost of similar public services in the case of unit stores. Larger crowds, coupled with no delivery service, necessitate policing of traffic congestion and packages in parking areas which is not required to the same extent in similar unit stores.

The existence in Kentucky of small home town merchants has been regarded generally as a social asset—quite aside from the economic considerations which have been set forth. Chains tend to carry high-profit items; whereas, local dealers assume the burdens of carrying slow selling stock and low-profit items that are needed by local consumers. Local dealers who own their stores have a stake in civic affairs, frequently lacking in the case of chain managers and clerks. Also, owners of single unit stores are usually more inclined to contribute from profits to community improvements than are chain executives. Unit stores extend credit to needy families when they do not have available funds. It is well known that chains frequently release older employees, allowing them to become charges either of the community or local businesses. Single unit stores, usually locally owned, do not do this. Local dealers take more seriously community actions for the relief of the poor, protection of the community health, and guarding the morals of the youth than do the chain store managers who, under pressure to make sales, especially in rural communities, frequently have no interest in the community besides the job itself. Unit stores in taking a personal interest in local customers cannot afford to load them with fancy-package, high-profit items instead of sensible staple merchandise. Moreover, the local store in itself has constituted in many cases a community center such as a chain store has never been. Insofar

as chains affect unemployment, the gravamen is not just displacement of men by mechanical devices but more sales per man such as is found in the super markets.

It is to the interest of the State to foster communities, to the building of which men have devoted their whole lives, paid their taxes, and invested all their capital therein. The State should not lose the chance for development of individual initiative that is so necessary to the development and vigor of a democracy. It may be substantially argued that in encouraging one-family-merchandising institutions, the State is doing in this field what the National Government is doing in the field of soil erosion and conservation, and that established independent local merchants are just as necessary to industrial health as rich soil is to farming. Even if communal merchandising is a more efficient economic unit, Americans might none the less elect to retain one-family-merchandising on a small scale the same as they probably would choose one-family farming over Russian Soviet communal farming.

The *Census of Business*[41] of 1935 read in conjunction with chain store license and tax legislation demonstrates that prior to the growth of chain regulation the decline of individual store businesses was so phenomenal in this country as to constitute a serious problem to the social and economic structure of the community. At the same time it is apparent from these official figures that imposition of the licenses did not eliminate chains. The process of putting local, independent merchants out of business was only slowed down. Legislation, not to revolutionize the country's institutions but to prevent a too rapid replacement, is the logical outcome of balancing indispensable social values against a greater economic efficiency. Such policing objectives are to be predicated on the assumption that the prosperous must contribute more than the less prosperous to the operation of our courts, schools, and other governmental institutions. It is not necessary to regard such

[41] *Census of Business*. Volume IV, p. 9.

contributions as punitive and/or an inevitable impairment of merchandising efficiency of the chains is not necessarily involved when considered in the framework of a greater social cohesiveness. Chain merchandising may be called upon to make an even greater contribution than it has in the past. Moderate regulatory provisions should be drawn in view of different circumstances so as to avoid arbitrariness.

APPENDIX

TABLE I

RELATIONSHIP BETWEEN NUMBER OF STORES IN CHAIN AND SALES VOLUME PER STORE

	Harvard Study No. and Page	Small Chains	Medium-Sized Chains	Large Chains	Year
Variety Chains[1]					
No. of Chains	110:22	15	15	12	1938
Av. Sales per Store		$30,885	$38,060	$160,360	
Department Store Chains[2]					
No. of Chains	101:44	13	8	.....	1934
Av. Sales per Store		$81,269	$142,340	.....	
Drug Chains[3]					
No. of Chains	87:33	14	25	17	1929
Av. Sales per Store		$50,000	$62,000	$100,000	
Food Chains[4]					
No. of Chains	99:28	8	15	8	1934
Av. Sales per Store		$40,126	$40,207	$47,294	

[1] *Small* chains, less than 10 stores; *medium-sized* chains, 10–50 stores; *large* chains, over 50 stores.

[2] *Small* chains, less than 10 stores; *medium-sized* chains, 10–40 stores.

[3] *Small* chains, less than 5 stores; *medium-sized* chains, 5–15 stores; *large* chains, over 50 stores.

[4] *Small* chains, under 100; *medium-sized* chains, 100–500; *large* chains, 500 or more.

TABLE II

RELATIONSHIP OF STOCK TURNOVER TO SALES OF SMALL, MEDIUM-SIZED, AND LARGE CHAINS

	Harvard Study No. and Page	Small Chains	Medium-Sized Chains	Large Chains	Year
Variety Chains[1]					
No. of Chains	110:22	15	15	12	1938
Stock-turn		3.09	3.89	4.51	
Department Store Chains[2]					
No. of Chains	101:44	13	8	.....	1934
Stock-turn		3.04	4.36	.....	
Drug Chains[3]					
No. of Chains	87:33	14	25	17	1929
Stock-turn		3.20	3.90	4.40	
Food Chains[4]					
No. of Chains	99:28	8	15	8	1934
Stock-turn		6.81	8.32	8.46	
Shoe Chains[5]					
No. of Chains	86:25	22	18	9	1929
Stock-turn		3.00	3.30	3.00	

[1] *Small* chains, less than 10 stores; *medium-sized* chains, 10–50 stores; *large* chains, over 50 stores.

[2] *Small* chains, less than 10 stores; *medium-sized* chains, 10–40 stores.

[3] *Small* chains, less than 5 stores; *medium-sized* chains, 5–15 stores; *large* chains, over 15 stores.

[4] *Small* chains, under 100; *medium-sized* chains, 100–500; *large* chains, 500 or more.

[5] *Small* chains, less than 10 stores; *medium-sized* chains, 10–30 stores; *large* chains, over 30 stores.

TABLE III

RELATIONSHIP BETWEEN TAXES (EXCEPT REAL ESTATE AND FEDERAL INCOME TAXES) AND SALES IN SMALL, MEDIUM-SIZED, AND LARGE CHAINS*

	Harvard Study No. and Page	Small Chains	Medium-Sized Chains	Large Chains	Year
Variety Chains[1]					
No. of Chains	110:22	15	15	12	1938
Ratio of Taxes to Sales		1.26%	1.05%	1.25%	
Department Store Chains[2]					
No. of Chains	101:44	13	8	.....	1934
Ratio of Taxes to Sales		0.55%	0.42%	.....	
Drug Chains[3]					
No. of Chains	87:33	14	25	17	1929
Ratio of Taxes to Sales		0.55%	0.50%	0.30%	
Food Chains[4]					
No. of Chains	99:28	8	15	8	1934
Ratio of Taxes to Sales		0.72%	0.50%	0.56%	
Shoe Chains[5]					
No. of Chains	86:25	22	18	9	1929
Ratio of Taxes to Sales		0.25%	0.30%	0.35%	

* The tax figure shown is not precisely comparable as between different groups, as for example department and grocery chains; but it is fully comparable for the purpose for which presented; i.e., comparison within the group.

[1] *Small* chains, less than 10 stores; *medium-sized* chains, 10–50 stores; *large* chains, over 50 stores.

[2] *Small* chains, less than 10 stores; *medium-sized* chains, 10–40 stores.

[3] *Small* chains, less than 5 stores; *medium-sized* chains, 5–15 stores; *large* chains, over 50 stores.

[4] *Small* chains, under 100; *medium-sized* chains, 100–500; *large* chains, 500 or more.

[5] *Small* chains, less than 10 stores; *medium-sized* chains, 10–30 stores; *large* chains, over 30 stores.

TABLE IV

PROPORTION OF PURCHASES FROM MANUFACTURERS BY SIZE OF CHAINS, 1928[1]

Kinds and Size of Chains	No. of Reporting Chains	Average Stores per Chain	Percentage of Total Purchases
Drug			
2–5 Stores	47	3.0	35.6
6–10 Stores	7	6.9	66.7
11–25 Stores	7	16.4	81.5
26–50 Stores	1	35.0	80.0
51–100 Stores	1	56.0	90.0
101–500 Stores	.....	.....	.....
501–1000 Stores	1	504.0	95.2
Total	64	14.1	87.3
Tobacco			
2–5 Stores	2	4.0	54.6
6–10 Stores	5	8.2	63.5
11–25 Stores	7	14.9	73.7
51–100 Stores	1	89.0	100.0
101–500 Stores	1	302.0	80.0
Over 1000 Stores	1	1,802.0	89.0
Total	17	138.0	83.1
Variety ($1 limit)			
2–5 Stores	6	3.2	67.5
6–10 Stores	5	8.0	58.7
11–25 Stores	2	13.5	9.1
26–50 Stores	5	34.0	91.8
51–100 Stores	1	81.0	80.0

[1] Federal Trade Commission, *Chain Stores*, 72nd Congress, First Session, Document No. 30, p. 39.

101–500 Stores	2	205.0	89.1
501–1000 Stores	1	506.0	90.0
Over 1000 Stores	1	1,723.0	95.0
Total	23	129.4	91.8
Men's and women's shoes			
2–5 Stores	25	3.2	91.5
6–10 Stores	6	7.7	94.4
11–25 Stores	13	16.5	90.9
26–50 Stores	3	35.3	100.0
51–100 Stores	4	85.0	90.7
101–500 Stores	2	364.5	97.1
Total	53	11.4	94.1

TABLE V[1]

RELATIONSHIP OF SALARIES AND WAGES TO SALES IN SMALL, MEDIUM-SIZED, AND LARGE CHAINS

	Harvard Study No. and Page	Small Chains	Medium-Sized Chains	Large Chains	Year
Variety Chains[1]					
No. of Chains	110:22	15	15	12	1938
Ratio of Salaries and Wages to Sales		18.52%	16.86%	14.89%	
Department Store Chains[2]					
No. of Chains	101:44	13	8	.....	1934
Ratio of Salaries and Wages to Sales		14.22%	13.36%	.....	
Drug Chains[3]					
No. of Chains	87:33	14	25	17	1929
Ratio of Salaries and Wages to Sales		20.00%	17.40%	15.50%	
Food Chains[4]					
No. of Chains	99:28	8	15	8	1934
Ratio of Salaries and Wages to Sales		12.26%	11.96%	12.71%	
Shoe Chains[5]					
No. of Chains	86:25	22	18	9	1929
Ratio of Salaries and Wages to Sales		15.80%	14.10%	11.70%	

[1] *Small* chains, less than 10 stores; *medium-sized* chains, 10–50 stores; *large* chains, over 50 stores.

[2] *Small* chains, less than 10 stores; *medium-sized* chains, 10–40 stores.

[3] *Small* chains, less than 5 stores; *medium-sized* chains, 5–15 stores; *large* chains, over 15 stores.

[4] *Small* chains, under 100; *medium-sized* chains, 100–500; *large* chains, 500 or more.

[5] *Small* chains, less than 10 stores; *medium-sized* chains, 10–30 stores; *large* chains, over 30 stores.

TABLE VI

RELATIONSHIP OF NET GAIN (BEFORE INCOME TAXES) TO NET WORTH OF SMALL, MEDIUM-SIZED, AND LARGE CHAINS

	Harvard Study No. and Page	Small Chains	Medium-Sized Chains	Large Chains	Year
Variety Chains[1]					
No. of Chains	110:22	15	15	12	1938
Ratio of Net Gain to Net Worth		13.10%	15.09%	13.50%	
Department Store Chains[2]					
No. of Chains	101:44	13	8	.....	1934
Ratio of Net Gain to Net Worth		8.50%	11.26%	.....	
Drug Chains[3]					
No. of Chains	87:33	14	25	17	1929
Ratio of Net Gain to Net Worth		10.00%	12.00%	13.00%	
Food Chains[4]					
No. of Chains	99:28	8	15	8	1934
Ratio of Net Gain to Net Worth		—5.25%	8.10%	10.22%	
Shoe Chains[5]					
No. of Chains	86:25	22	18	9	1929
Ratio of Net Gain to Net Worth		7.00%	14.00%	.....	

[1] *Small* chains, less than 10 stores; *medium-sized* chains, 10–50 stores; *large* chains, over 50 stores.

[2] *Small* chains, less than 10 stores; *medium-sized* chains, 10–40 stores.

[3] *Small* chains, less than 5 stores; *medium-sized* chains, 5–15 stores; *large* chains, over 15 stores.

[4] *Small* chains, under 100; *medium-sized* chains, 100–500; *large* chains, 500 or more.

[5] *Small* chains, less than 10 stores; *medium-sized* chains, 10–30 stores; *large* chains, over 30 stores.

TABLE VII

RELATIONSHIP BETWEEN NET INCOME AND SALES IN SMALL, MEDIUM-SIZED, AND LARGE CHAINS

	Harvard Study No. and Page	Small Chains	Medium-Sized Chains	Large Chains	Year
Variety Chains[1]					
No. of Chains	110:22	15	15	12	1938
Ratio of income to sales		1.87%	1.81%	2.29%	
Department Store Chains[2]					
No. of Chains	101:44	13	8	.....	1934
Ratio of income sales		0.45%	1.74%	.....	
Drug Chains[3]					
No. of Chains	87:33	14	25	17	1929
Ratio of income to sales		0.50%	1.10%	1.80%	
Food Chains[4]					
No. of Chains	99:28	8	15	8	1934
Ratio of income to sales		—2.23%	0.37%	0.76%	
Shoe Chains[5]					
No. of Chains	86:25	22	18	9	1929
Ratio of income to sales		0.00%	2.00%	0.40%	

[1] *Small* chains, less than 10 stores; *medium-sized* chains, 10–50 stores; *large* chains, over 50 stores.

[2] *Small* chains, less than 10 stores; *medium-sized* chains, 10–40 stores.

[3] *Small* chains, less than 5 stores; *medium-sized* chains, 5–15 stores; *large* chains, over 50 stores.

[4] *Small* chains, under 100; *medium-sized* chains, 100–500; *large* chains, 500 stores or more.

[5] *Small* chains, less than 10 stores; *medium-sized* chains, 10–30 stores; *large* chains, over 30 stores.

Mr. Joe Robinson moved that the Rules of this House be suspended and that a bill entitled:

H. B. 166. AN ACT relating to chain stores or multiple mercantile establishments and imposing a license fee on such business for the purpose of regulating same and establishing a more nearly equal basis for competition between all persons, firms, corporations or associations engaged in the sale of goods, wares, commodities and merchandise so as to preserve the single unit or independent type of store or mercantile establishment in the interest of the general welfare, by authority of the general police power; to curb and discourage monopolies, trusts, or combinations in restraint of free trade and tendencies toward such monopolies, trusts, or combinations in the interest of the general welfare, by authority of the general police power as well as to fulfill the mandatory duty imposed by section 198 of the Constitution of Kentucky.

Be taken up for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration from the Orders of the Day, said bill.

Said bill is as follows, viz.:

WHEREAS, chain stores or multiple mercantile establishments enjoy certain specific advantages not common to independent merchants such as: centralized warehousing of goods or distribution from a single warehouse to numerous stores; pooling of buying so as to obtain price advantages or more favorable cash discounts or rebates; transferring goods from a store where the market is stagnant to one that is active; and certain other general advantages in buying, selling, advertising, accounting, supervision and management;

WHEREAS, because of the very nature of chain organi-

zations and the advantages peculiar to them, a single unit or store in the chain may sell merchandise at less than cost and let the other links in the chain absorb the loss; and thereby force an independent merchant out of business so that virtually the entire business of a small community may be eventually taken over by the chain;

WHEREAS, chain stores or mercantile establishments do run price leaders at a price below cost or the real value of the merchandise in contravention of section 198 of the Constitution of this Commonwealth;

WHEREAS, the advantages and practices aforementioned among other tend strongly to create monopolies and restrain or limit trade;

WHEREAS, said advantages do and said practices may become more pronounced as the number of stores or mercantile establishments in the chain increases; and the profits per store and net income on sales and profits from the investment tend to increase as the number of stores or mercantile establishments in the chain increases, while the relationship of salaries and wages to the cost of goods sold decreases as the number of stores or mercantile establishments in a chain increases;

WHEREAS, the stability of the local communities is important to the welfare of the state, and small merchants are essential to that stability in that they necessarily maintain an intimate business relationship with local bankers, wholesalers, mechanics, artisans and farmers and take a greater interest in local charitable, religious, educational, cultural and civic affairs and thereby use their influences and resources for the purpose of creating a higher degree of loyalty to their community, state and institutions than can be expected of chain organizations or transients;

WHEREAS, it is deemed by the Generaly Assembly to be in the public interest that the public policy of the state

should be and is that chain store organizations should be permitted to continue their operation in this state only under regulations and conditions that will not permit them to destroy or unfairly impede the operation of the business of independent merchants, and that this act is intended to offset in a measure the advantages and practices peculiar to the chain organization so as to make the advantages of merchandising of chain organizations of varying number of stores and independents more nearly equal in the interest of the general welfare, under the authority of the general police power, as well as to comply with the mandatory duties imposed upon the General Assembly by section 198 of the Constitution of this Commonwealth; and

WHEREAS, the considerations hereinabove set out are not intended to and do not specify or include all considerations in support of the public policy expressed and declared in this Act, it is hereby declared to be the legislative intent that said considerations shall not be construed as restrictive but as indicative only of some of the considerations on which the public policy of this state has been determined and declared; Now, Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Each person, firm, copartnership, corporation or association of persons engaged in the business of operating, or maintaining, as part of a group or chain, any store or stores or mercantile establishments in this Commonwealth, where goods, wares, meals, merchandise or commodities of any description whatsoever are sold or offered for sale at retail under the same general management, ownership or control, commonly known as branch or chain stores, shall be required to obtain for each such store or establishment an annual license for the calendar year beginning January 1, 1940, and for each subsequent year. Should two or more persons, firms, copartnerships, corporations or association of persons having

a controlling interest, directly or indirectly in different stores, pool their buying or selling, each and every store so operated shall be treated as being a part of a branch or chain of stores or mercantile establishments as contemplated in this Act.

§ 2. Every person, firm, copartnership, corporation or association of persons engaged in the business described in section 1 of this Act and doing business in this Commonwealth shall, on or before the second day of January of each year, render to the Department of Revenue of this Commonwealth a report signed and sworn to by the person or persons in interest, his or their duly authorized agent or officer, containing a true and complete statement showing the greatest number of stores or mercantile establishments wherever located operated or maintained at any one time in the preceding year; the name, location and street address of each such store or mercantile establishment operated or to be operated in this Commonwealth for the year in which license is applied for; and such other information as the Department of Revenue may require.

§ 3. The annual fee for the license required by this Act shall be determined on the number of stores or mercantile establishments included under the same general management ownership or control, whether operated in this Commonwealth or not, and shall be fixed and graded as follows, to wit:

(1) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of not more than five stores, the annual license fee shall be twenty-five ($25.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(2) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than five stores, but not more than twenty-five stores, the annual license fee shall be fifty

($50.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(3) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than twenty-five stores but not more than fifty stores, the annual license fee shall be seventy-five ($75.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(4) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than fifty stores but not more than one hundred stores, the annual license fee shall be one hundred ($100.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(5) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than one hundred stores but not more than one hundred and fifty stores, the annual license fee shall be one hundred and twenty-five ($125.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(6) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than one hundred and fifty stores but not more than two hundred stores, the annual license fee shall be one hundred and fifty ($150.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(7) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than two hundred stores but not more than two hundred and fifty stores, the annual license fee shall be one hundred and seventy-five ($175.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

(8) Upon such stores or mercantile establishments operated in this Commonwealth and belonging to a chain or group having a total of more than two hundred and fifty stores, the annual license fee shall be two hundred ($200.00) dollars for each such store or mercantile establishment operated in this Commonwealth.

§ 4. The provisions of this Act shall not apply to filling, service or bulk stations maintained for the servicing of motor vehicles, if at least seventy per cent (70%) of the business done by such person, firm, corpartnership, corporation or association of persons at his or its such filling, service or bulk station in this Commonwealth are sales of motor fuels and/or motor lubricants, unless it shall be finally determined that the exemption contained in this section is invalid in which case it is hereby declared to be the legislative intention that the provisions of this Act shall apply to filling, service or bulk stations operated or maintained as a part of a group or chain.

§ 5. Every person, firm, copartnership, corporation or association of persons beginning the operation of any store or mercantile establishment in this Commonwealth on any other date than January first of any year, shall first secure the license and pay the fee therefor in the manner herein provided, and the amount of the fee shall be based upon that proportion of the annual license fee that the number of months (for this purpose a part of a month shall be counted as a whole month) remaining between the date of the beginning of the operation and the following January first bears to twelve.

§ 6. Whenever any person has obtained the license for and paid the license fee due under this Act on any such stores or mercantile establishments and shall die, the Department of Revenue upon application may transfer the license to the personal representative or widow of the deceased for the remainder of the unexpired year for which the license was obtained without the payment of any additional license fee.

Whenever a store or mercantile establishment for which the license has been secured and the fee paid as required under this Act is moved to another location in the same community or local merchandising district thereof, the Department of Revenue may upon application transfer the license to the new location. The transfer shall be endorsed on the license as originally granted.

§ 7. The administration of this Act is vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the enforcement thereof. The Department of Revenue shall have power to institute legal proceedings, as now provided by law, for the purpose of enforcing the collection of any amount due under this act, with penalty thereon, and for the purpose of enjoining the operation of the business of any person, firm, copartnership, corporation or association of persons not complying with the provisions of this Act.

§ 8. Neither the license nor the fee therefor herein prescribed shall be in any way a waiver of any taxes or other licenses imposed by the laws of this Commonwealth.

§ 9. The fee for the license under this Act shall be paid on or before the second day of January of each year to the Department of Revenue of the Commonwealth of Kentucky at its office in Frankfort, Kentucky, and said Department is hereby charged with the duty of collecting said license fee, and if delinquent, such license fee shall bear interest at the rate of one-half of one per cent per month, and in addition a penalty equal to ten per cent of the principal shall be paid. If such amounts are collected by suit an additional amount equal to twenty per cent of the principal, interest and ten per cent penalty shall be assessed, collected and distributed as provided in chapter 21 of the Acts of the Fourth Extraordinary Session of the 1936 General Assembly, particularly section 4263 Carroll's Kentucky Statutes, 1936 Edition as

amended thereby (now found as section 4263 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes).

The license required for the period beginning January 1, 1940 and expiring December 31, 1940 shall be secured and the full year's fee therefor so paid before the end of the thirtieth day after this Act shall become effective.

A separate license shall be issued for each store or business establishment required under this Act to be licensed, and it shall be the duty of the person, firm, copartnership, corporation or association required to post the license or cause it to be posted in a conspicuous place in each store.

§ 10. All funds collected under the provisions of this Act shall be collected through the Department of Revenue and paid into the state treasury, and deposited in the general expenditure fund, except the twenty per cent penalty provided in section 9 hereof shall be distributed as now provided by law.

§ 11. Any person, the member of any firm, the officer or manager of any corporation or association, violating any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall be punished by a fine of not more than five hundred ($500.00) dollars nor less than fifty ($50.00) dollars, or by imprisonment of not more than ninety (90) days nor less than sixty (60) days in the county jail, or both such fine and imprisonment, at the discretion of the court.

§ 12. In the event any phrase, clause, or section of this Act is found to be unconstitutional for any reason, such unconstitutionality shall not have the effect of invalidating those other portions of this Act which may be found to be constitutional, but those other portions which are found to be constitutional shall continue to remain in full force and effect.

Mr. Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provisions as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	D. E. Edwards	T. B. McConnell
G. M. Ballard	Harry W. Ennis	Frank C. McElwain
Robert E. Barry	T. P. Fitzpatrick	E. Hayes McMakin
Wm. T. Beard	Wayne Freeman	Norris McPherson
Alvis S. Bennett	Eugene Gough	G. Sam Milam
Sterling B. Blake	Van Y. Greene	Stanley C. Moebus
Douglas T. Bolling	Ralph C. Hamilton	John B. Mollette
J. F. Bosworth	T. H. Hickey	Davis Moore
W. S. Brim	Clyde S. Howard	J. Lee Moore
C. J. Bronston	Chester Huffines	Joe T. Morgan
Gus A. Brooks	John M. Hunnicutt	C. Homer Neikirk
Randolph A. Brown	W. H. Hunt	Carl D. Perkins
Haynes Carman	R. L. Jackson	B. W. Porter
Charles M. Carter	J. B. Jarboe, Jr.	H. O. Porter
James W. Chapman	Chas. X. Jones	Kleber F. Price
S. B. Chrisman	John S. Juett	Hobart Rayburn
John Coulter	William K. King	Thomas Rigdon
John H. Cox	W. A. Lamkin, Jr.	W. H. Riley
Pink G. Curd	Robert E. Lee	Joe E. Robinson
W. Q. Daniel	Harvey D. Leonard	Lyman Roll
F. E. Daugherty	Edward Leslie	Carl Scheben
Stanley S. Dickson	W. Paul Lyon	Leon J. Shaikun
Forest C. Easley	C. C. May	Ray O. Shehan

Faust Y. Simpson	W. St. Clair Stuart	Porter Wallace
Bruce Sloan	T. M. Swope	Harry F. Walters
Otto Smither	Otis C. Thomas	Henry Ward
G. C. Springate	Erna E. Tyra	Otis White
J. Claude Stacy	J. Wood Vance	James H. Woods
Ray J. Stengel	Walter R. Vansant	Mr. Speaker
Henry Stewart	S. J. Wagner	—89

Those who voted in the negative were—

C. W. Anderson, Jr.	Cecil Florence	E. T. Sparks
H. T. Baker	C. L. Hammons	H. L. Waterfield
R. R. Ernst	Jack Savage	—8

Resolved that the title thereof be as aforesaid.

Mr. Joe E. Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 123. AN ACT relating to revenue and taxation, and repealing, amending, and re-enacting section one (1) of Chapter 63 of the Acts of the 1938 Regular Session of the General Assembly.

Said motion was agreed to.

Thereupon the House took up for immediate consideration from the Orders of the Day, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.*—Whenever used in this Act unless the context requires otherwise.

1. "Person" shall mean and include any individual, firm, partnership, association, corporation or other group or combination acting as a unit.

2. "Clerk" shall mean the clerk of the county court in the county where the business is to be conducted or the privilege exercised.

3. "Department" shall mean the Department of Revenue.

§ 2. *Issued by Clerk.*—All licenses shall be granted by the clerk of the county court of the county in which the business is proposed to be conducted and shall be issued in writing and on forms to be prepared by the Department of Revenue and furnished to each county court clerk from time to time as may be necessary for use in his office.

§ 3. *Expiration Date of Licenses; Abatement of Fees for Fractional Part of Fiscal Year.*—All licenses to be issued under this Act shall be obtained and the license tax shall become due and payable on July first of each year and shall expire on June thirtieth of each year. When any person shall apply for any license after July first of any year, he shall be charged an amount equal to as many twelfths of the annual license tax as there are calendar months remaining (including the month in which the license is granted) until the following July first.

§ 4. *Persons Who Shall not be Granted License; Penalty.*—Any person who applies for a license who has engaged or who refuses under oath to say that he or his agents have not engaged in any business or occupation within six months next preceding the date of application therefor, for which a license was required, without having had the license

required, except as otherwise provided in this Act shall in addition to the regular license tax, pay a sum equal to Twenty per cent (20%) thereof. Any person making under oath a false statement in securing a license shall be deemed guilty of a misdemeanor.

§ 5. *Administration.*—The administration of this Act is hereby vested in the Department of Revenue which may prescribe forms and promulgate rules and regulations needed for the administration and enforcement of this Act. The Department is also authorized to require any person licensed under section 10 subsection 1 of this Act to supply such information concerning his business, sales or the privileges exercised as is deemed reasonably necessary for the regulation thereof to protect the revenue of the Commonwealth. Failure on the part of the licensee mentioned in section 10 subsection 1 to comply with the provisions of this Act, or any rules or regulations promulgated thereunder or to permit an inspection of the licensed premises by an authorized agent of the Department at any reasonable time, shall be grounds for the revocation of such license by the Department of Revenue after due notice and a hearing at its offices. A conferee may in the discretion of the Commissioner of Revenue, be appointed to conduct any hearing, receive evidence and hear argument, and embody same in a report to the Commissioner of Revenue or the Kentucky Tax Commission. Appeals may be had in accordance with section five (5) of Chapter Four (4) of the Acts of the General Assembly, 1938 First Extraordinary Session. No new license shall be issued to anyone whose license has been revoked for a period of one (1) year after revocation.

§ 6. *Department to Keep Count of License Forms Furnished Clerks; Duty of Clerks; Receipts Credited to General Fund.*—The Department shall keep a strict account against each clerk of the license forms furnished him and it shall be

the duty of each clerk annually to account for all license forms furnished him by the Department.

The records kept by the clerks of licenses provided for in this Act shall be opened to inspection by a properly authorized agent of the Department at any reasonable time and it shall be the duty of the clerk to account for all monies received and license forms furnished him as required by the Department.

The county court clerk shall be allowed Five per cent (5%) commission on all license taxes collected and accounted for by him, which commission shall be in addition to the One Dollar ($1.00) fee provided in section 1720 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision. The clerk shall pay on or before the tenth (10th) of each month to the Department all monies above Five per cent (5%) collected under this Act during the month previous and for failure to do so shall in addition pay the penalty provided in section 4701a-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision and shall also send to it at the same time such reports as are required by the Department. The Department shall transmit all such monies, as required by law, for deposit with the State Treasurer to be credited to the General Fund.

§ 7. *License not Valid Unless Upon Department of Revenue Form; Duty of Clerk; Transfer.*—No license shall be valid or confer any authority unless the same be issued upon forms furnished for that purpose by the Department and no clerk shall issue any license except upon forms furnished to him by the Department, and under the seal of the court; nor shall any license be transferable either from one person to another or from one location to another except as provided herein.

§ 8. *License to Specify Place; Death of Licensee; Transfer.*—All applicants for licenses shall set out in their application the location of the premises to be licensed stating the county, city, state and number, if the premises has a

street number, and otherwise such apt description as will reasonably indicate the location where it is proposed to carry on the business or exercise the privilege, except as otherwise provided. No one except the person named in the license shall sell under, or exercise the privilege granted, except as otherwise provided nor shall the privilege granted be exercised at any place other than that mentioned in the license except as otherwise provided.

In case an act of God or a casualty for which the licensee was not responsible renders the licensed premises, for all practical purposes, unfit for use by the licensee, the clerk may, under regulations to be promulgated by the Department, if such action is necessary to attain justice, change the license to authorize continuance of the business at other premises by an endorsement thereon stating the new premises at which the business may be conducted or the privilege exercised under such transferred license. No such transfer shall be made unless the licensee shall have filed a written statement under oath of the reasons for the necessity of transfer. The clerk shall receive a fee of Twenty-five Cents (25c) for such endorsement and for mailing a notice of the endorsement to the Department upon a form to be prescribed by the Department.

Whenever any person to whom a license has been granted and who has paid the tax thereon shall die or sell his stock or place of business before the expiration of the license, the clerk in the county in which the business is conducted or the privilege exercised may renew the license to the personal representative, or the person or persons inheriting the business, or the purchaser of the stock or place of business without the payment of any additional tax for the unexpired period. The application for the renewal or granting thereof shall be in the same manner and subject to the same conditions as prescribed above in the change of address of a licensee. The clerk shall receive a fee of Twenty-five Cents (25c) for

amending the license and notifying the Department upon forms prescribed therefor.

§ 9. *Penalties for Violations of this Act.*—Any person who shall engage in any business or sell or offer to sell or have on hand for the purpose of sale any article or exercise any privilege for which a license is required by this Act before procuring the license and paying the tax thereon, as required by law, shall be deemed guilty of a misdemeanor and upon conviction be fined a sum of not less than Twenty-five Dollars ($25.00) and not more than Two Hundred Dollars ($200.00) for each offense unless otherwise specifically provided.

Any clerk who shall violate any provisions of this Act or any reasonable rule or regulation promulgated by the Department hereunder shall be deemed guilty of a misdemeanor and upon conviction be fined a sum of not less than Fifty Dollars ($50.00) and not more than One Thousand Dollars ($1,000.00) for each offense.

§ 10. That section one (1) of Chapter Sixty-three (63) of the Acts of the 1938 Regular Session of Kentucky General Assembly be and the same is hereby repealed, amended and re-enacted so that when re-enacted said section shall read as follows:

Licenses.—No person shall engage in any of the occupations or sell any of the articles or exercise any of the privileges named in this Act until such person shall have paid to the clerk of the county wherein such person is engaged in such occupation or in selling such articles or in exercising such privilege the license tax herein prescribed and obtained the license therefor.

Provided, however, that this section shall not be construed to impose a tax on any county, state, or community fair association or corporation or similar enterprise, or upon the agent or concessionaire of any such association, or cor-

poration operating within the grounds or rooms devoted to a festival or fair of any such association, or corporation which shall engage in any of the occupations or sell any of the articles or exercise any of the privileges named in this Act for a period of not exceeding one (1) week in any calendar year without profit to the members, stockholders of, or other person connected with any such association or corporation. It is further provided that this exemption shall not be deemed or construed to permit such association, corporation or similar enterprise to possess cigarettes in packages, boxes or retail containers upon which the tax provided in section 4281e-2, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, has not been paid.

Subsection (1). *Cigarettes.*—For the privilege of possessing in this state cigarettes upon which the Kentucky cigarette tax has not been paid and the Kentucky tax stamps not affixed to the package, box, or container, as required by section 4281e-1 through section 4281e-16, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, or for the privilege of selling in this state to another person for resale in this Commonwealth cigarettes upon which the Kentucky cigarette tax referred to above has been paid, there is hereby imposed a license fee of Twenty-five Dollars ($25.00) per annum. The word "possessing" as used herein shall not include the transportation of cigarettes in interstate commerce nor shall it include any temporary holding in good faith by a transportation agency prior to shipping out of the state or prior to delivery to consignee or his agent but it shall include among other things possession for purposes of sale, gift or use within the state after the interstate journey is ended.

It is hereby declared to be the legislative intent that any person or transient who engages in any of the businesses or exercises any of the privileges mentioned in this subsection or subsection 3 of this section from a wagon, push cart, motor vehicle, truck, or other similar contrivance in which the

articles named in such subsections are transported from place to place and sold therefrom shall procure a license from the clerk in each county where the business is to be conducted or the privilege exercised for each and every wagon, push cart, motor vehicle, truck, or other similar contrivance so used in each county of this Commonwealth wherein the person is engaged in the business mentioned or the privilege exercised. It is further provided that notwithstanding the provisions of section eight (8) of this Act the license shall indicate an apt description of the wagon, push cart, motor vehicle, truck or other similar contrivance from which such business is to be conducted or such privilege exercised. Whenever any person to whom the licenses referred to in this subsection or in subsection three (3) of this section has been granted and who has paid the required license tax thereon shall change the wagon, push cart, motor vehicle, truck, or other similar contrivance for which such license was originally granted, the clerk may amend such license in accordance with regulations of the Department so as to permit the continued operation of the business. For such amendment, the clerk shall receive a fee of Twenty-five Cents (25c) from the licensee.

Subsection (2). *Restaurants.*—For each restaurant serving meals, Ten Dollars ($10.00) per annum. The word "restaurant" shall be construed to mean and include all places or establishments wherein hot food and/or hot drink is served to the general public.

Subsection (3). *Soft drinks and ice cream, retail dealers.*—For each retail outlet of soft drinks or ice cream, Five Dollars ($5.00) per annum. Soft drinks, within the meaning of this Act, shall be construed to be any beverage of less than one-half of one per cent (½%) alcohol, whether bottled or from a fountain. In cases where ice cream and soft drinks are sold by the same retail outlet, one license tax of Ten Dollars ($10.00) per annum only shall be charged.

Subsection (4). *Theaters.*—For each theater or public exhibition or performance, Twenty Cents (20c) per seat per annum, the minimum charge under this Act to be Ten Dollars ($10.00) per annum. A theater within the meaning of this Act shall be construed to be any building wherein public exhibitions or performances, including moving pictures, are given, and at which a charge is exacted from those attending same. This paragraph shall not apply to chautauquas, to fairs, or to buildings owned or operated by religious, educational or charitable organizations in which public exhibitions or performances are given by such organizations, but shall apply if at any time non-religious, non-educational or non-charitable organizations or persons use the same.

Subsection (5). *Billiard or pool tables or bowling alleys.*—For each billiard or pool table or bowling alley, irrespective size, where a fee is charged and collected, directly or indirectly, Thirty Dollars ($30.00) per annum for the first table or alley and Five Dollars ($5.00) per annum for each additional table or alley.

Subsection (6). *Tobacco Products; Retail Dealers.*—For each place at which tobacco products are sold at retail Ten Dollars ($10.00) per annum. The words "tobacco products" shall mean and include among other things such things as cigarettes, snuff, cigars, smoking tobacco, and chewing tobacco by whatever name called but shall not mean nicotine or any by-product of tobacco which is used for medicinal, chemical, or manufacturing purposes.

§ 11. All laws or parts of laws in conflict herewith are repealed to the extent of such conflict.

Mr. Dickson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Hammons moved that the Rules of this House be suspended and that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Hammons and Neikirk, were as follows, viz:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	C. L. Hammons	Hobart Rayburn
H. T. Baker	T. H. Hickey	Lyman Roll
G. M. Ballard	Clyde S. Howard	Jack Savage
Alvis S. Bennett	W. H. Hunt	Leon J. Shaikun
Rell Bevins	R. L. Jackson	Ray O. Shehan
J. F. Bosworth	J. B. Jarboe, Jr.	Bruce Sloan
W. S. Brim	Robert E. Lee	Otto Smither
Haynes Carman	Edward Leslie	E. T. Sparks
Charles M. Carter	Paul W. Lyon	Henry Stewart
S. B. Chrisman	Frank C. McElwain	Otis C. Thomas
John H. Cox	G. Sam Milam	Walter R. Vansant
W. Q. Daniel	Stanley C. Moebus	S. J. Wagner
Forest C. Easley	John B. Mollette	Porter Wallace
R. R. Ernst	Davis Moore	H. L. Waterfield
Carlos Fallis	Joe T. Morgan	Otis White
Cecil Florence	C. Homer Neikirk	—47

Those who voted in the negative were—

J. Everett Bach	John Coulter	Chester Huffines
Robert E. Barry	F. E. Daugherty	John M. Hunnicutt
Wm. T. Beard	Stanley S. Dickson	Chas. X. Jones
Sterling B. Blake	D. E. Edwards	John S. Juett
Douglas T. Bolling	Harry W. Ennis	W. A. Lamkin, Jr.
C. J. Bronston	T. P. Fitzpatrick	Harvey D. Leonard
Gus A. Brooks	Wayne Freeman	C. C. May
Randolph A. Brown	Van Y. Greene	T. B. McConnell
James W. Chapman	Ralph C. Hamilton	E. Hayes McMakin

Norris McPherson	W. H. Riley	W. St. Clair Stuart
J. Lee Moore	Joe E. Robinson	T. M. Swope
Carl D. Perkins	Carl Scheben	Erna E. Tyra
B. W. Porter	Faust Y. Simpson	J. Wood Vance
H. O. Porter	G. C. Springate	Harry F. Walters
Kleber F. Price	J. Claude Stacy	Henry Ward
Thomas Rigdon	Ray J. Stengel	James H. Woods

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Mr. Shehan moved that the House do now adjourn.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Hammons and Neikirk, were as follows, viz:

Those who voted in the affirmative were—

H. T. Baker	Cecil Florence	Hobart Rayburn
G. M. Ballard	Wayne Freeman	Lyman Roll
Alvis S. Bennett	C. L. Hammons	Jack Savage
Rell Bevins	T. H. Hickey	Ray O. Shehan
J. F. Bosworth	W. H. Hunt	Bruce Sloan
C. J. Bronston	Edward Leslie	E. T. Sparks
Haynes Carman	W. Paul Lyon	Henry Stewart
Charles M. Carter	Frank C. McElwain	T. M. Swope
S. B. Chrisman	Stanley C. Moebus	Otis C. Thomas
John H. Cox	John B. Mollette	Porter Wallace
R. R. Ernst	Joe T. Morgan	
Carlos Fallis	C. Homer Neikirk	

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Those who voted in the negative were—

C. W. Anderson, Jr.	Pink G. Curd	Van Y. Greene
J. Everett Bach	W. Q. Daniel	Ralph C. Hamilton
Sterling B. Blake	F. E. Daugherty	Chester Huffines
Douglas T. Bolling	Stanley S. Dickson	John M. Hunnicutt
Gus A. Brooks	Forest C. Easley	R. L. Jackson
Randolph A. Brown	D. E. Edwards	J. B. Jarboe, Jr.
James W. Chapman	Harry W. Ennis	Chas. X. Jones
John Coulter	T. P. Fitzpatrick	John S. Juett

William K. King	Carl D. Perkins	J. Claude Stacy
W. A. Lamkin, Jr.	B. W. Porter	Ray J. Stengel
Robert E. Lee	H. O. Porter	W. St. Clair Stuart
Harvey D. Leonard	Kleber F. Price	J. Wood Vance
C. C. May	Thomas Rigdon	Walter R. Vansant
T. B. McConnell	W. H. Riley	S. J. Wagner
E. Hayes McMakin	Joe E. Robinson	Harry F. Walters
Norris McPherson	Carl Scheben	Henry Ward
G. Sam Milam	Leon J. Shaikun	H. L. Waterfield
Davis Moore	Faust Y. Simpson	Otis White
J. Lee Moore	G. C. Springate	James H. Woods

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Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	F. E. Daugherty	Chas. X. Jones
J. Everett Bach	Stanley S. Dickson	John S. Juett
Robert E. Barry	Forest C. Easley	William K. King
Wm. T. Beard	D. E. Edwards	W. A. Lamkin, Jr.
Rell Bevins	Harry W. Ennis	Harvey D. Leonard
Sterling B. Blake	T. P. Fitzpatrick	T. B. McConnell
Douglas T. Bolling	Cecil Florence	E. Hayes McMakin
W. S. Brim	Wayne Freeman	Norris McPherson
C. J. Bronston	Eugene Gough	G. Sam Milam
Gus A. Brooks	Van Y. Greene	Davis Moore
Randolph A. Brown	Ralph C. Hamilton	J. Lee Moore
James W. Chapman	Clyde S. Howard	Carl D. Perkins
John Coulter	Chester Huffines	B. W. Porter
John H. Cox	John M. Hunnicutt	H. O. Porter
Pink G. Curd	R. L. Jackson	Kleber F. Price
W. Q. Daniel	J. B. Jarboe, Jr.	Thomas Rigdon

W. H. Riley	Otto Smither	J. Wood Vance
Joe E. Robinson	G. C. Springate	Walter R. Vansant
Lyman Roll	J. Claude Stacy	Harry F. Walters
Carl Scheben	Ray J. Stengel	Henry Ward
Leon J. Shaikun	W. St. Clair Stuart	H. L. Waterfield
Faust Y. Simpson	T. M. Swope	James H. Woods

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Those who voted in the negative were—

H. T. Baker	W. H. Hunt	Jack Savage
G. M. Ballard	Robert E. Lee	Ray O. Shehan
Alvis S. Bennett	Edward Leslie	Bruce Sloan
J. F. Bosworth	W. Paul Lyon	E. T. Sparks
Haynes Carman	C. C. May	Henry Stewart
Charles M. Carter	Stanley C. Moebus	Otis C. Thomas
S. B. Chrisman	John B. Mollette	S. J. Wagner
R. R. Ernst	Joe T. Morgan	Porter Wallace
C. L. Hammons	C. Homer Neikirk	Otis White
T. H. Hickey	Hobart Rayburn	

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Resolved that the title thereof be as aforesaid.

Mr. Dickson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended for the purpose of introducing bills and resolutions.

Said motion was agreed to.

Thereupon the following bills and resolutions were introduced, viz:

By Mr. H. O. Porter.

H. B. 213. An Act giving the State Board of Barber and Beautician Examiners jurisdiction to hear and adjust

controversies arising among members and organizations of the barber profession and beauty culture profession; to approve agreements fixing minimum prices for barber service and beauty culture service and establishing opening and closing hours for barber shops and beauty shops; fixing territorial units for voting on such agreements; fixing the method of voting; providing for the service of orders, subpoenas and notices; providing methods of enforcement and investigation; defining additional powers and duties of the State Board of Barber and Beautician Examiners; and providing penalties for violations of this Act.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Purpose, Policy, Legislative Finding and Statement of Fact.* The facts, policies and purposes herein set out are hereby declared as a matter of legislative finding and determination and the provisions and regulations hereof are declared to be enacted in the interest of the public health, public safety and general welfare; that the profession of barbering and beauty culture and the operation of barber shops and beauty shops is hereby declared to be affected with a public interest; that the fixing of minimum prices for services and regulation of hours of operation will stabilize the barber business and beauty culture business, safeguard fair competition and will facilitate adequate sanitary inspection and supervision of barber shops, as provided by the laws and ordinances of this State and will thereby tend to protect the health and safety of the public and protect barbers and beauty culturists from long, unreasonable and unhealthful hours of service and from inadequate means for complying with health and sanitary regulations.

It is further declared that unfair, demoralizing and uneconomic competition and practices now exist in this State

among barbers and barber shops and beauty culturist and beauty shops resulting in price cutting to the extent of limiting and preventing barbers and beauty culturists from rendering safe and healthful service to the public by reducing the purchasing power of barbers and beauticians in obtaining sanitary products and appliances, required for health protection and safety in preventing transmission of disease.

It is further declared that the danger to the public health, safety and welfare is immediate and impending, that the necessity is urgent and such as will not permit delay in public supervision and control in accord with the proper standards of the barber profession and the beauty culture profession.

§ 2. *Definitions:* As used in this Act, unless overwise expressly stated or unless the context or subject matter otherwise requires, "Barber and Beautician Board" or "Board," means State Board of Barber and Beautician Examiners.

§ 3. *Minimum Price Agreements — Voting — District.* Whenever a scale of minimum prices for barber services or beauty culturist services shall have been agreed upon, signed and submitted to the State Board of Barber and Beautician Examiners by organized and representative groups of barbers or beauty culturists of at least seventy per cent (70%) of the licensed barbers or beauty culturists in any area comprising a Circuit Court Judicial District of this State, which area shall constitute a territorial unit for all purposes under this Act, the State Board of Barber and Beautician Examiners shall have power to approve such agreements and to declare and establish, within such area comprising a Circuit Court Judicial District, by official order, the minimum prices for any and all work or service usually performed in barber shops, or beauty shops; provided, however, any school located in any judicial district of this State may give free work to the public in order that the students may have patrons on which to practice, and that any school charging for service or services must charge

at least two-thirds of such agreed and approved minimum price or prices for such service or services.

All licensed instructors in Barber or Beauty Colleges shall be entitled to a vote the same as any duly licensed Barber or Beauty Culturist.

The minimum prices for Beautician services shall be voted upon only by licensed beautician instructors, beauticians and apprentice beauticians.

The minimum prices for Barber services shall be voted upon only by licensed barber instructors, barbers, and apprentice barbers. In no way is the Act to be construed as giving beauticians power to fix minimum prices for barber services or barbers power to fix minimum prices for beauticians services.

Before approving such agreements the Board, within forty days after such schedule is submitted, shall determine by investigation, whether such suggested prices are reasonable, and sufficient to enable barber shops or beauty shops in such district to operate in keeping with the purposes of this Act in minimizing danger to the public health and safety incident to such work.

In determining reasonable minimum prices the Board shall take into consideration the necessary costs incurred in the particular Judicial District in maintaining barber shops and beauty shops in a clean, healthful and sanitary condition, and also the wages or commissions, or both, which are customarily paid to employees in barber shops, or beauty shops in such District, and shall take into consideration any and all other facts and conditions affecting the barber or beauty culture professions in its relation to the public health and safety. If the Board shall find after investigation that the minimum prices fixed in any such District are insufficient to provide adequate service for protecting the public health and safety, such prices may be changed and varied from time to time.

The giving away of candies, prizes, or foods in any barber or beauty shop in an effort to obtain business shall be considered a violation of the minimum prices fixed under this Act, and shall be considered a violation of this Act.

§ 4. *Opening and Closing Hour Agreements.* The Board of Barber and Beautician Examiners shall have power to approve and, by official order, to establish the days and hours when barber shops or beauty shops may remain open for business, whenever agreements fixing such opening and closing hours have been signed and submitted to the Board by any organized and representative groups of barbers or beauty culturists of at least seventy per cent (70%) of the barbers or beauty culturists of any Judicial District, and the Board shall have like power to investigate the reasonableness and propriety of the hours fixed by such agreement, as is conferred under Section 3 of this Act, concerning price agreements.

§ 5. *Expiration of Orders.* All orders of the Board approving schedules of prices to be charged for barber service or beauty culture service and agreements fixing opening and closing hours for barber shops or beauty shops as herein provided, shall remain in force and effect for a period of one year after the date of the approval of any such order, and shall automatically be renewed annually upon its anniversary date, unless rescinded, modified or replaced by a new agreement, approved and promulgated by the Board, after being signed and submitted under the procedure provided in Sections 3 and 4 of this Act.

§ 6. *Adoption and Posting of Rules.* The State Board of Barber and Beautician Examiners shall adopt and enforce all rules and orders necessary to carry out the provisions of this Act. All rules and orders of the Board shall be printed and posted for public inspection in the office of the Secretary of the Board, and shall include all minimum price agreements

and agreements fixing opening and closing hours for barbering and beauty culturists which have been approved and promulgated by the Board.

The publication in a newspaper of general circulation in each area comprising a Circuit Court Judicial District and the posting in the main office of the Secretary of the Board of any rule or order not herein required to be served upon any person shall constitute due and sufficient notice to all persons affected by such rule, or order, and shall be binding upon them.

§ 7. *Subpoenas, Oaths, Depositions.* For the purpose of ascertaining the reasonableness and propriety of all agreements submitted, the Board shall have the power to subpoena barbers or beauty culturists, their record, books, and accounts and any other persons from whom such information may be desired and may issue commissions to take depositions of witnesses absent from the State. Any member of the Board, or designated representative for that purpose, may sign and issue subpoenas, or notices and may administer oaths to witnesses.

§ 8. *Investigations, Procedure.* The practice and procedure of the Board with respect to any investigation authorized by this Act shall be in accordance with rules and regulations to be promulgated by the Board, which shall provide for a reasonable notice to all persons affected by orders to be made by the Board after such investigation, opportunity to be heard either in person, or by counsel, and to introduce testimony in their behalf at any public hearing to be held for that purpose.

For the purpose of such investigation, or any hearing which the Board is authorized or required to conduct the Board or any member thereof, and its Secretary shall have power to conduct such hearing, administer oaths, take depositions, issue subpoenas, compel the attendance of witnesses, and the production of books, papers, documents and other

evidence. In case of disobedience of any person to comply with the order of the Board, or a subpoena issued by the Board, or any of its members or its Secretary, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of any Circuit Court of the District in which the person resides, on application of any member of the Board, or its Secretary, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience to a subpoena issued from Court, or a refusal to testify therein. The Sheriff of the county in which such person resides shall serve all orders and subpoenas herein referred to, and each witness who appeared in obedience to subpoenas before the Board, or members, or its Secretary, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the Circuit Courts of this State, which shall be paid upon presentation of proper vouchers approved by any two members of the Board. No witnesses subpoenaed at the instance of a party, other than the Board or one of its members, or its Secretary shall be entitled to compensation unless the Board shall certify that his testimony was material to the matter investigated.

§ 9. *Inspection of Books, etc., Actions, Injunctions.* Any member of the Board, or its representative designated for such purpose, shall have access to enter all places where barbering or beauty culture is being carried on and shall have power to inspect all books, papers, records, or documents in any place within the State, for the purpose of ascertaining facts to enable the Board to administer this Act, and the Board may institute such actions in the courts of competent jurisdiction as may appear necessary to enforce compliance with any provision hereof, and to enforce compliance with any ruling, subpoena, or order of the Board made pursuant to the provisions of this Act and in addition to any other remedy may apply to any court of competent jurisdiction for relief by injunction.

§ 10. *General Powers, Mediation of Disputes, Scope of Act.* The State Board of Barber and Beautician Examiners is hereby vested with such general powers as are necessary for administering and enforcing this Act, and the Board may act as mediator and arbitrator in any controversy or issue that may arise among or between barbers, or beauticians, as between themselves, or that may arise between groups, provided, however, that nothing contained in this Act shall be construed to affect the status, force or operation of any regulations of the State Board of Health, or of any local health ordinance, or regulation, or to affect the authority now vested in the Department of Labor of the State of Kentucky.

All provisions of this Act shall apply to and be binding upon all persons to whom, under any other laws of this State, the State Board of Barbers and Beautician Examiners is authorized to issue licenses or certificates of registration, including barbers, barber apprentices, beautician apprentices and beauticians in beauty shops and barber establishments as defined in such laws.

§ 11. *Violations, Penalty.* That a violation of any provision of this Act, or any rule, or subpoena, or order of the Board lawfully made pursuant thereto, except as otherwise expressly provided by this Act, shall be a misdemeanor punishable upon conviction, by a fine of not less than nineteen dollars ($19.00) and not exceeding $175.00 or by imprisonment not exceeding nine days or both such fine and imprisonment, and each day during which such violation shall continue shall be deemed a separate violation.

§ 12. *Revocation of License, Hearing, Appeal and Undertaking.* That the Board may decline to grant a barber's or beautician's or other license, or may suspend or revoke such license if already granted, upon due notice and opportunity of hearing to the applicant, or licensee, when satisfied that any such person has violated any of the provisions of this Act. Any applicant or licensee considering himself or

herself aggrieved by any action of the Board taken under the provisions of this Act, may, within fifteen days after receipt of the order of the Board, take an appeal from the action of the Board to the Circuit Court of the County in which such person resides, which court shall have jurisdiction to reverse, vacate, or modify the order complained of, if, upon consideration of the records, such court is of the opinion that such order was unlawful or unreasonable. Upon service of notice of such appeal the Board shall, with its answer, file a transcript of testimony taken in the hearing and the original papers or duly authenticated transcripts thereof, and other evidence in said court. No proceeding to vacate or reverse or modify a final order rendered by the Board shall operate to stay the execution or effect thereof, unless the Circuit Court or a judge thereof in vacation, on application and three days' notice to the Board, shall allow such stay, in which event the petitioner shall be required to execute an undertaking in such sum as the court may prescribe, with sufficient surety to the satisfaction of the court, conditioned for the prompt payment of all damage arising from, or caused by the delay in the enforcement of the order complained of.

Any order applying only to a person, or persons, named therein shall be served by delivery of the order, or a certified copy thereof, to such person by any authorized representative of the Board or by the Sheriff of the County in which such person resides for service upon him in the same manner as summons is served in civil action.

§ 13. *Records to Be Kept.* The State Board of Barber and Beautician Examiners may require all licensees to keep a record of all barber work or beauty work performed and the prices thereof, a record of all expenses incident to the operation of a barber shop, or beauty shop, a record of the net profits of any barber shop, or beauty shop from month to month; such other records and information and reports as

the Board may deem necessary for the proper enforcement of this Act.

§ 14. *Constitutionality.* If any clause, sentence, paragraph or part of this Act or any rule of the Board adopted pursuant to it shall, for any reason, be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

§ 15. *Expenses, Permits and Fees.* That all expenses incidental to the administration of this Act shall be paid from the funds of the State Board of Barbers and Beautician Examiners in the manner and form governing other expenditures of the Board.

§ 16. This Act shall be known and may be cited as the "Barber and Beauty Culturist Fair Practice Act."

By Mr. Bevins.

H. B. 214. An Act providing for the regulation of teachers' salaries in the Commonwealth of Kentucky on the basis of teaching experience and credits.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Department of Education of the Commonwealth of Kentucky, and the County Boards of Education of this State shall pay, and is hereby authorized to pay teachers in the elementary schools for their services in this State on the basis of teaching experience as well as credits received from schools and colleges. Providing that one (1) year teaching experience shall equal five (5) college hours. Providing further that the maximum number of years on which salary

is based shall be twenty (20) years, and this Act shall be effective only in those counties which pay their teachers a salary greater than the minimum as already fixed by law.

All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Thomas.

H. Res. 31. Joint Resolution for the payment to the Honorable A. W. Leach, sheriff of Russell County, Jamestown, Kentucky, the sum of seventy-three dollars and forty-seven cents ($73.47), amount due him on claim against the Commonwealth of Kentucky for services rendered in conveying a fugitive from justice from Springfield, Illinois, to Jamestown, Kentucky, one Cameron Shearer, and delivering the said Cameron Shearer to the jailer of Russell County.

Said resolution is as follows, viz.:

WHEREAS, one Cameron Shearer was indicted in the Russell Circuit Court at the June, 1938, term, on a charge of child desertion, and was convicted at the June, 1939, term of said court, and

WHEREAS, A. W. Leach, of Jamestown, Kentucky, Sheriff of Russell County, was notified after the commission of the crime that said person was apprehended in Springfield, Illinois; that immediately thereafter said A. W. Leach went to Springfield, Illinois, and brought the said prisoner back to Jamestown, Kentucky, and incurred expenses to him personally in the sum of seventy-three and 47/100 ($73.47) dollars, and

WHEREAS, on or about the 25th day of July, 1939, the said A. W. Leach presented a claim to the Commonwealth of Kentucky for said sum, which claim is proven according to law, and

WHEREAS, said claim was rejected because the said Cameron Shearer waived extradition, which did not permit

the said A. W. Leach, Sheriff of Russell County, to receive compensation for his services under the Statutes of this Commonwealth, and

WHEREAS, the said claim of A. W. Leach is a just claim, and a moral obligation of the Commonwealth, and said services were rendered on behalf of the Commonwealth of Kentucky, and for the protection of the citizens of the Commonwealth,

Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That for the purpose of paying said sum to the said A. W. Leach, of Jamestown, Sheriff of Russell County, Kentucky, there is hereby appropriated out of the General Revenue of the State, the sum of seventy-three and 47/100 ($73.47) dollars, and the Auditor of Public Accounts is hereby authorized and directed to draw his warrant upon the treasury for said amount, payable to A. W. Leach, Sheriff of Russell County, Jamestown, Kentucky, and deliver the same to him for the purpose aforesaid.

By Mr. Sparks.

H. Res. 32. Resolution for the benefit of Joe I. Day of Letcher County, Kentucky, to reimburse him for expenses incurred and services rendered the Commonwealth of Kentucky in 1939 in going from Whitesburg, Kentucky, to Denver, Colorado, to return to Letcher County, Ky., one Dan Gary, a fugitive from justice.

Said resolution is as follows, viz.:

WHEREAS, in the year 1939, Honorable A. B. Chandler, Governor of the Commonwealth of Kentucky, made requisition upon the Governor of the State of Colorado for the return to Letcher County, Kentucky, of one Dan Gary, a fugitive

from justice, and who stood indicted in Letcher County, Kentucky, upon charges of murder, and

WHEREAS, Honorable A. B. Chandler appointed Joe I. Day of Whitesburg, Kentucky, as the agent of the Commonwealth of Kentucky to go to Denver, Colorado, and return said fugitive to Letcher County, and in obedience to said appointment and authority vested in him, Joe I. Day did travel from Whitesburg, Kentucky, to Denver, Colorado, a distance of 3,332 miles, going and returning, by the route most usually traveled, and whereas it was necessary for said Day to take with him for the purpose of identifying said fugitive, a Mr. Forbs, whose per diem and expenses he paid out of his own funds, and the Commonwealth of Kentucky is indebted to the said Joe I. Day as follows:

Joe I. Day—Traveling 3,332 Miles @ 6c	$199.92
Mr. Forbus—Traveling 3,610 miles @ 6c	216.60
Lodging and meals for self and witness six days @ $3.50 per day	21.00
Paid witness Forbs for loss of time away from work	26.26
Total	$463.78

WHEREAS, the Governor of the State of Colorado refused to honor the requisition of the Governor of the Commonwealth of Kentucky for the return of said fugitive, and for such reason said Day was unable to return him to Letcher County, Kentucky, but acted in good faith as the agent of the Commonwealth of Kentucky, and made an effort to do so and expended the sums of money as above set forth, and whereas, there is no provision of law whereby the Treasurer of the State of Kentucky can legally pay said Day for his services and expenses incurred and rendered in connection therewith, and the Commonwealth of Kentucky is morally bound and obligated to pay same, now, therefore:

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That the Auditor of Public Accounts be and he is hereby directed to draw his warrant on the State Treasurer in favor of Joe I. Day for the sum of FOUR HUNDRED, SIXTY-THREE and 78/100 DOLLARS ($463.78) in full payment of his expenses and services rendered as aforesaid, and payable out of any funds now in the hands of said Treasurer unappropriated.

Ordered that said bills and resolutions be printed and referred.

A message was received from the Senate announcing that they had passed a bill which originated in that body, entitled:

S. B. 24. An Act prohibiting the manufacture, sale, exchange, offering for sale or exchange and possession with intent to sell or exchange, milk, cream, etc., to which has been added or which has been blended or compounded with fat or oil other than milk fat; and prescribing penalties for violation.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That whenever used in this Act the term "person" includes an individual, partnership, corporation or association.

The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, pow-

dered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed: Provided, that this definition shall not be held or construed to mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, provided such compound (1) is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician; (2) is packed in individual containers bearing a label in bold type that the contents are to be used for said purposes; and provided further, that nothing in this definition shall be held or construed to prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oils other than milk or butter fat.

§ 2. That "filled milk" as herein defined, is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public.

§ 3. That it shall be unlawful for any person, by himself, his servant or agent, or as the servant or agent of another, to manufacture for sale within this State, or sell or exchange, or have in his possession with intent to sell or exchange, any "filled milk" as defined in this Act.

§ 4. That any person who shall violate any of the provisions of this Act, shall upon conviction, be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), or be imprisoned in the county jail for not less than ten (10) days, nor more than six (6) months, or by both such fine and imprisonment.

§ 5. That if any clause, sentence, paragraph, or part of this Act, shall, for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or any part thereof, directly involved in the controversy in which the judgment has been rendered.

§ 6. That all laws or parts of laws, contrary to, or inconsistent with the provisions of this Act, be, and the same are, hereby repealed.

§ 7. It shall be the duty of the State Board of Health to enforce this Act in every county of the Commonwealth of Kentucky.

§ 8. It shall be the duty of the County Attorney in any county of the Commonwealth of Kentucky to prosecute any violation of this Act.

§ 9. This Act shall become effective immediately upon its passage and approval by the Governor.

Ordered that said bill be printed and referred.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on tomorrow at twelve o'clock Meridian.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 24, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend C. W. Grant of the Methodist Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Eugene Gough	B. W. Porter
J. Everett Bach	Van Y. Greene	H. O. Porter
H. T. Baker	Ralph C. Hamilton	Kleber F. Price
Robert E. Barry	C. L. Hammons	Hobart Rayburn
Wm. T. Beard	T. H. Hickey	Thomas Rigdon
Alvis S. Bennett	Clyde S. Howard	Joe E. Robinson
Rell Bevins	Chester Huffines	Lyman Roll
Sterling B. Blake	John M. Hunnicutt	Jack Savage
Douglas T. Bolling	W. H. Hunt	Carl Scheben
J. F. Bosworth	R. L. Jackson	Leon J. Shaikun
W. S. Brim	J. B. Jarboe, Jr.	Ray O. Shehan
C. J. Bronston	Chas. X. Jones	Faust Y. Simpson
Gus A. Brooks	John S. Juett	Bruce Sloan
Randolph A. Brown	William K. King	Otto Smither
Haynes Carman	W. A. Lamkin, Jr.	E. T. Sparks
Charles M. Carter	Harvey D. Leonard	G. C. Springate
S. B. Chrisman	Edward Leslie	J. Claude Stacy
John Coulter	W. Paul Lyon	Ray J. Stengel
John H. Cox	C. C. May	Henry Stewart
Pink G. Curd	T. B. McConnell	W. St. Clair Stuart
W. Q. Daniel	Frank C. McElwain	T. M. Swope
F. E. Daugherty	E. Hayes McMakin	Erna E. Tyra
Stanley S. Dickson	Norris McPherson	J. Wood Vance
Forest C. Easley	G. Sam Milam	Walter R. Vansant
D. E. Edwards	Stanley C. Moebus	S. J. Wagner
Harry W. Ennis	John B. Mollette	Porter Wallace
R. R. Ernst	Davis Moore	Harry F. Walters
Carlos Fallis	J. Lee Moore	Henry Ward
T. P. Fitzpatrick	Joe T. Morgan	H. L. Waterfield
Cecil Florence	C. Homer Neikirk	Otis White
Wayne Freeman	Carl D. Perkins	James H. Woods

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Mr. Shehan moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Bennett moved that a leave of absence be granted to Mr. Riley.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House do now proceed to the consideration of the Orders of the Day.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the House do now recess until one o'clock P.M.

Said motion was agreed to.

And then the House recessed.

The hour of one o'clock P.M. having arrived, the Speaker resumed the Chair and called the House to order.

The following bills and resolutions were introduced, viz.:

By Mr. Juett.

H. B. 215. AN ACT authorizing independent school districts to annex county subdistricts or parts thereof, or county districts to annex parts of independent districts, and providing for the repeal of Chapter 40 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, being Section 4399-4a, Baldwin's Kentucky Statutes, Carroll's 1939 Supplement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Any independent school district may annex and unite as a part of the independent school district any county subdistrict, subdistricts, or parts of subdistricts lying adjacent to the independent school district, or any county district may annex a part of an independent district either lying within, partly within, or adjacent to the county district, subject to the following provisions:

When a part of the county district is to be annexed to an independent district, the board of education of the independent school district shall secure the approval of the county board of education and of the Superintendent of Public Instruction. Such approval of the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the independent school district to that of the average per census pupil wealth of the county school district as a whole and the effect of the proposed territorial loss of the county district on the educational program of such county school district.

If and when such approval has been secured in writing, the board of education of the independent school district shall submit to the legal voters of the territory proposed to be added the question of whether or not said territory shall become a part of such independent school district. If said proposal shall be adopted by a majority vote of the legal voters resident within the territory to be added to the independent district, such territory shall become a part of the independent school district.

When a part of the independent district is to be annexed to the county district, the board of education of the county school district shall secure the approval of the board of education of the independent school district and of the Superin-

tendent of Public Instruction. Such approval of the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the county school district, to that of the average per census pupil wealth of the independent school district and the effect of the proposed territorial loss of the independent school district on the educational program of said independent school district.

If and when such approval has been secured in writing, the board of education of the county school district shall submit to the legal voters of the territory proposed to be added the question of whether or not said territory shall become a part of such county school district. If said proposal shall be adopted by a majority of the legal voters resident within the territory to be added to the county school district, such territory shall become a part of the county school district.

Chapter 40 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, being Section 4399-4a, Baldwin's Kentucky Statutes, Carroll's 1939 Supplement, is hereby repealed.

By Mr. Waterfield.

H. B. 216. AN ACT concerning railroads, regulating the operation of trains, engines, motors, locomotive cranes or pile drivers, providing for the number of employees on the same, prescribing penalties, and repealing all laws in conflict therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. It shall be unlawful for any common carrier by railroad in the State of Kentucky, to run or permit to be run on any of its lines or any part thereof, outside of yard limits,

any freight, mixed, work or wreck trains, propelled or drawn by steam, electricity, gasoline or other motive power, that has not at least the following named employees thereon: One engineer and one fireman for each steam locomotive where such train is propelled or drawn by steam; one engineer or motorman and one assistant to such engineer or motorman, where such train is propelled or drawn by electricity, gasoline or any other form of energy; one conductor, one brakeman and one flagman, in through freight service; and when used in mine run switching, work train, and local freight service, they shall have at least one conductor, two brakemen and one flagman.

§ 2. It shall be unlawful for any person or persons, corporation or common carrier by railroad, to operate or permit to be operated on any of its tracks in the State of Kentucky, any locomotive engine or motor used to switch cars, to handle cars, unless said locomotive, engine, or motor is manned with a crew of competent employees consisting of not less than one engineer, or motorman, one fireman, or assistant to such engineer or motorman, one conductor or foreman and two brakemen or switchmen, and where such locomotive, engine, or motor is operated over or upon any highway or street, within the corporate limits of any municipality it shall be manned by a crew of competent employees consisting of not less than one engineer or motorman, one fireman or assistant to such engineer or motorman, one conductor or foreman and three brakemen.

§ 3. It shall be unlawful for any person or persons, corporation or common carrier by railroad, to operate or permit to be operated on any of its tracks, outside of yard limits, in the State of Kentucky, any locomotive, engine, motor locomotive crane, or pile driver, without cars, unless said locomotive, engine, motor, locomotive crane or pile driver, is manned with a crew of competent employees consisting of

not less than one engineer or motorman, one fireman or assistant, one conductor or flagman.

§ 4. It shall be unlawful for any common carrier by railroad in the State of Kentucky, to run or permit to be run on any of its lines or any part thereof, outside of yard limits, any passenger, mail or express train, that has not at least the following named employees thereon: One engineer or motorman, one fireman or assistant to such engineer or motorman, one conductor, one brakeman and one flagman; said brakeman and flagman shall not be required to perform the duties of baggage man, express messenger or porter.

§ 5. Nothing in this act shall apply to any railroad whose line or lines are less than fifty miles in length, nor to motor cars used by maintenance of way department, signal men, or electric street railways operating in cities or on interurban lines, nor shall this act apply in cases of disability occurring to any member of a crew while on the road between terminals, or to relief or wrecking trains where sufficient men are not available.

§ 6. Any person or persons, corporation, or common carrier by railroad, operating any railroad in this Commonwealth who shall willfully violate any of the provisions of this act, shall be liable to the Commonwealth for a penalty of not less than one hundred nor more than three hundred dollars or confined in the county jail for not less than thirty nor more than ninety days for each offense, or may be both so fined and imprisoned, and such penalties shall be recovered by action brought by the Attorney General of the Commonwealth at the direction of the State Railroad Commission, in the Circuit Court of Franklin County; provided, however, this act shall not apply in case of engine failure between terminals.

§ 7. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 8. If any part, subdivision or section of the Act shall be deemed unconstitutional, the validity of its remaining provisions shall not be effected thereby.

By same.

H. B. 217. AN ACT to limit the length of trains, to provide for reports to the State Railroad Commission, to prescribe penalties, to provide for enforcement by the State Railroad Commission, and to provide for repeal.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

DEFINITIONS.

§ 1. When used in this Act and for the purpose of this ACT—The term carrier, shall mean a common carrier by railroad, or partly by railroad and partly by water, and any receiver or any other individual or body, judicial or otherwise, when in possession of the business of carriers covered by this Act, excluding street, suburban, and interurban electric railways, unless operated as a part of the general railroad system of transportation.

The term "locomotive" means any self-propelled unit operated by any form of energy of power, whether produced thereon or furnished from any outside source, and adapted for use in moving cars upon rails, or for the transportation of passengers and/or freight or property.

The term "passenger train" means any train composed of one or more locomotives with cars constructed for the purpose of transporting passengers, mail, express, or a combination or combinations of any of the same.

The term "freight train" means any train composed of one or more locomotives with cars constructed for the pur-

pose of transporting freight or other property not specifically referred to in the above definition of a passenger train.

The term "mixed train" means any train composed of one or more locomotives with, at one and the same time, cars of the type set forth under definition of a passenger train above and cars of the type set forth under the definition of a freight train above.

§ 2. It shall be unlawful for any carrier to operate or permit to be operated over any line of railroad owned or operated by it any freight train more than one-half mile in length but in no event consisting of more than seventy cars, exclusive of caboose.

§ 3. It shall be unlawful for any carrier to operate or permit to be operated over any line of railroad owned or operated by it any passenger train consisting of more than fourteen cars.

§ 4. It shall be unlawful for any carrier to operate or permit to be operated over any line of railroad owned or operated by it any mixed train more than one-half mile in length but in no event consisting of more than seventy cars in all, or of which more than fourteen are cars constructed for the purpose of transporting passengers, mail, express, or a combination or combinations of any of the same.

§ 5. In case of locomotive failure a carrier shall have the right to operate a train of greater car length than provided in this Act until such train arrives at the next terminal or the next point at which another locomotive can be procured.

§ 6. The State Railroad Commission shall require every carrier subject to this Act to make and file with the State Railroad Commission, at its office in Frankfort, Kentucky, a monthly report under such rules and regulations as may be prescribed by said Commission, and under oath, of all operations of trains of greater car length than provided in

Sections 2, 3, and 4 of this Act. Such report shall state the reasons and causes therefor, the points to and from which said operation was carried on, and all other circumstances connected therewith.

§ 7. That any carrier subject to this Act violating any of the provisions thereof shall be liable to a penalty of not less than one hundred dollars nor more than three hundred dollars, and confined in the County Jail for not less than thirty, nor more than ninety days, for each and every violation, said fine or fines to be recovered in a suit or suits to be brought by the Attorney General in the Circuit Court of Franklin County, State of Kentucky, and it shall be the duty of such Attorney General to bring any such suit upon satisfactory information being lodged with him of such violations having occurred, but no such suit shall be brought after the expiration of two years from the date of such violation; and it shall be the duty of the State Railroad Commission to lodge with the Attorney General information of any such violations that may come to its knowledge. In all prosecutions under this Act the carrier shall be deemed to have knowledge of all acts of all its officers and agents.

§ 8. It shall be the duty of the State Railroad Commission to execute and enforce the provisions of this Act, and all powers granted to the State Railroad Commission are hereby extended to it in the execution of this Act.

§ 9. All laws or parts of laws in conflict herewith, are hereby repealed to the extent of such conflict.

By Mr. Vance.

H. B. 218. AN ACT relating to revenue and taxation and providing for a license tax on coin-operated vending, musical, and amusement machines, and on dance halls where music is furnished by a coin-operated machine.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* As used in this Act unless the context requires otherwise:

(1) "Vending, musical or amusement machine" means any machine, device or facility used to dispense merchandise, service or other thing of value, or to provide music, or play musical compositions, or to provide facilities for any game of skill or amusement, the operation of which depends upon the insertion into its mechanism a coin, token, or other thing of value, except the following machines or devices:

(a) United States postage machines.

(b) Machines used exclusively for the transmission of the telephone messages.

(2) "Machines" means "vending, musical or amusement machine."

(3) "Department" means the Department of Revenue.

(4) "Clerk" means county court clerk.

§ 2. On or before June 30 of each year every owner of of a vending, musical, or amusement machine shall obtain a license for each machine from the county court clerk in the county in which the machine is to be operated. Appliation for licenses shall be made on duplicate forms furnished to the clerk by the Department of Revenue and shall contain the name and address of the owner, a description and trade name of the machine, the manufacturer's serial number, if there be such number, and any information deemed necessary by the Department. If there be no manufacturer's serial number on the machine the clerk shall assign the machine a number in accordance with rules made by the Department. The clerk shall forward one copy of the application to the Department and retain one copy in his office for two years.

§ 3. Upon receipt of the application accompanied by the required fees the clerk shall issue a license for each machine. This license shall consist of a metal tag designed and furnished by the Department and containing a serial number and the date when the license expires. This tag shall be securely attached to the machine so licensed and shall be prominently displayed on the machine.

§ 4. The license shall not be transferred from one machine to another, but may be transferred with the machine from one owner to another, within or without the county. Written notice of the transfer of ownership or that the machine is transferred out of the county in which it is licensed shall be filed with the Department before the machine shall be put into operation after such transfer.

§ 5. The license fee for each vending, musical, or amusement machine shall be as follows:

(1) Machines in which coins, tokens, or other things having a value of five cents or more may be inserted for each operation of the machine $50.00

(2) Machines in which coins, tokens, or other things having a value of less than five cents must be inserted for each operation of the machine $10.00

§ 6. (1) The proprietor or owner of every public dance hall or place where the public is invited to dance, whether an admission fee is charged or not, and who furnishes music for dancing by means of a musical machine as defined in subsection (1) of section one of this Act shall obtain from the clerk on or before June 30 of each year a license for each place operated for dancing. This shall not apply to places where an occasional dance is allowed and where the public is not invited or permitted to dance.

(2) Application for licenses required by subsection (1) of this section shall be made to the clerk on duplicate forms furnished by the Department and shall contain the

name and address of the proprietor or owner, the location of the place licensed, and such other information deemed necessary by the Department. The clerk shall forward one copy of the application to the Department and retain one copy in his office for two years.

(3) Upon receipt of the application accompanied by the required fee the clerk shall issue the applicant a license furnished by the Department which shall show the owner's or proprietor's name, and the location of the place licensed. This license shall be conspicuously displayed in the place licensed.

(4) The owner or proprietor may with the permission of the Commissioner of Revenue have the license changed so that he may operate in place other than that originally named in the license, but the license shall not be transferred from one person to another.

(5) The fee for a license required by subsection (1) of this section shall be two hundred dollars.

§ 7. A person may at any time after June 30 of one year and before June 30 of the next year obtain a license for the remainder of the license period upon payment of as many twelfths of the annual fee as there are unexpired months before the next July, if he has not violated this Act in not obtaining a license or licenses prior to the time he makes application and since the preceding June 30.

§ 8. The clerk shall retain for his fee three dollars for each two hundred dollar license, one dollar for each fifty dollar license, and fifty cents for each ten dollar license issued under this Act. All other sums collected for license fees under this Act shall be paid into the State Treasury. Eighty per cent of the funds paid into the Treasury shall be credited to the appropriations for the Department of Welfare and shall be used solely for the payment of old age pensions under Chapter 94 of the Acts of 1936, as amended.

The remaining twenty per cent shall be credited to the appropriation for the Department of Revenue to be used to to defray its expenses under this Act and other expenses of the Department.

§ 9. No vending, musical, or amusement machine shall be permitted to operate within five hundred yards of any public parochial, or private school which has enrolled a total of fifty or more pupils under eighteen years of age.

§ 10. *Penalties.* (1) The penalty for any violation of this Act shall be a fine of not less than one hundred dollars and not more than one thousand dollars. The operation of each vending, musical or amusement machine without a license is a separate offense.

(2) One-half of the fine collected for a violation of this Act shall be paid to the officer making the arrest.

(3) Any vending, musical or amusement machine found in operation on which the license has not been paid, or found in operation in violation of section 9 of this Act shall be confiscated by the officer making the arrest and sold in the manner provided by section 1605, and the proceeds after deducting the cost of the sale shall be paid to the officer making the arrest.

§ 11. The Commissioner of the Department of Revenue may make rules and regulations to enforce the provisions of this Act.

§ 12. This Act does not affect sections 1599f-1 to 1599f-15 of Baldwin's Kentucky Statute Service.

§ 13. No city or county shall place a tax on any machine for which a license is required by this Act in excess of one-fourth of the tax imposed by this Act.

§ 14. Persons are not required to obtain licenses under this Act prior to June 30, 1940.

By Mr. Ennis.

H. B. 219. AN ACT imposing a license upon any device or machine permitted by law to operate in the Commonwealth of Kentucky in which money, coins or slugs are deposited in the value of more than one cent whether such device is used as a machine of skill, amusement, or where property, or service is received in connection with such device or machine other than for the purpose of selling telephone connections and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That every person operating any machine or device permitted by law wherein money, coins or slugs in the value of more than one cent are deposited in connection with any game, whether of skill, amusement or service other than telephone connections, or whether such device or machine pays in merchandise, money or without reward, shall pay a license fee of twenty ($20.00) dollars per year on each such machine.

§ 2. The owner or operator of every device or machine permitted to operate under the provisions of this Act shall pay twenty ($20.00) dollars for each such device or machine. The County Court Clerk issuing said license shall receive a fee of twenty-five cents in addition to said license fee.

§ 3. The owner or operator of any such device or machine covered by this Act shall apply to the Clerk of the County Court and file a sworn statement of the number of devices, or machines to be installed by him in any county, and the County Clerk shall issue a license to said person upon the payment of the above fee and said license shall be conspicuously displayed on each said device or machine.

§ 4. The County Court Clerk at the end of each month shall transmit fifty per cent. (50%) of all fees collected by

him to the Treasurer of the Commonwealth of Kentucky and fifty per cent. (50%) shall be paid to the treasurer of his county to be applied to payment of the general indebtedness of said county.

§ 5. Any person violating any of the provisions of this Act upon conviction, shall be subject to a fine of not less than ten ($10.00) dollars and not more than fifty ($50.00) dollars, and each day that said device or machine is operated without first procuring said license shall constitute a separate offense.

§ 6. All laws and parts of laws in conflict herewith are hereby repealed of such conflict.

§ 7. Emergency. Whereas, the present state of revenue does not meet the immediate needs for the maintenance of the State government, and whereas the machines and devices need immediate regulation, an emergency is declared to exist and this Act shall become a law and be effective upon its passage and approval by the Governor.

By Mr. Fitzpatrick.

H. B. 220. AN ACT entitled an act providing for a board of film censorship; appointment; term; compensation; examination of films; fees; approval; official stamp; work of board; effective; providing punishment and penalties; counterfeiting; providing for an appeal; and method of procedure.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Advisory board of film censorship; appointment, term, compensation.* An advisory board of three members is hereby created in the department of education, to be known as the advisory board of film censorship. The members of

this board shall be appointed by the governor, to serve during his pleasure, and shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their official duties. Such board shall assist and advise the department of education in the examination and censorship of motion picture films.

§ 2. *Duties in the examination of films; fees.* It shall be the duty of the board of censors to examine and censor as herein provided, all motion picture films to be publicly exhibited and displayed in the state of Kentucky, and when necessary the board of censors may designate certain of the assistants furnished to them by the industrial commission, who under the direction and supervision of the board may examine motion picture films. Such films shall be submitted to the board and passed and approved by the board before they shall be delivered to the exhibitor for exhibition. The board shall charge a fee of one dollar for each reel of film to be censored which does not exceed one thousand lineal feet, and one dollar for each additional one thousand lineal feet or fractional part thereof. All moneys so received shall be paid each week into the state treasury.

§ 3. *What films shall be approved and passed; official stamp; recall of film.* Only such films as are in the judgment and discretion of the board of censors of a moral, educational or amusing and harmless character shall be passed and approved by such board. When a film has been censored by the board of censors a certificate showing the approval or rejection of such film shall be issued to the party submitting the film. When a film is passed and approved by the board of censors such film shall be given an approval number which shall be shown on the certificate issued by such board of censors to the party submitting the film. Such certificate shall also show the title of such film and all eliminations ordered from such film by the board of censors. For each film so approved there shall also be issued by the board of

censors an official leader or stamp of approval of not less than five feet in length bearing the words "Approved by the Kentucky Board of Censors" and the number assigned to such film on the certificate of approval. Such official leader or stamp of approval shall also contain an outline map of the State of Kentucky with the great seal of the state of Kentucky printed thereon. The board of censors shall be authorized to recall any film for recensoring or to revoke any certificate permitting the exhibition of any film in the state of Kentucky, whenever in the judgment of such board the public welfare requires it. Before any motion picture film shall be publicly exhibited all eliminations ordered by the board shall have been made by the person or persons loaning, renting or leasing such film or films to the exhibitor for exhibition, and there shall be projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, issued by the board for such film.

§ 4. *Board may work in conjunction with others.* The board of censors may work in conjunction with any censor board or boards of legal status of other states as a censor congress and the action of such congress in approving or rejecting films shall be considered as the action of the board and all films passed, approved, stamped and numbered by such congress, when the fees therfor have been paid to the Kentucky board, shall be considered approved by such board.

§ 5. *When act shall take effect.* Ninety days after this act shall take effect no films may be publicly shown or exhibited within the State of Kentucky unless they have been passed and approved by the board or the censor congress and stamped and numbered by such board, or congress, as provided for herein.

§ 6. *Enumeration of unlawful acts and penalties therefor.* Any person, firm or corporation who shall publicly exhibit or show any motion picture within the State of Kentucky unless it shall have been passed and approved by the

Kentucky board of censors or the department of education shall upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, for the first offense, and shall be fined not less than three hundred dollars nor more than five hundred dollars for each separate subsequent offense. Any person, firm or corporation acting as a distributor of motion picture films who shall loan, rent, lease or deliver any film or films to any exhibitor or other person for public exhibition within the state of Kentucky before such film or films shall have been passed and approved by the Kentucky board of censors or the department of education, shall upon conviction thereof, be fined not less than three hundred dollars nor more than five hundred dollars, for the first offense, and shall be fined not less than five hundred dollars nor more than one thousand dollars for each separate subsequent offense. Any person, firm, or corporation acting as a distributor of motion picture films who shall loan, rent, lease, or deliver any film or films to any exhibitor or other person for public exhibition in the state of Kentucky before eliminations ordered by the Kentucky board of censors or the department of education have been made, shall upon conviction thereof, be fined not less than three hundred dollars nor more than five hundred dollars, for the first offense, and not less than five hundred dollars nor more than one thousand dollars for each separate subsequent offense. Any person, firm or corporation who shall publicly exhibit or show any motion picture or film within the state of Kentucky without having first projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, assigned to such film as shown on the certificate issued by the board of censors or the department of education, shall upon conviction thereof be fined not less than twenty-five dollars nor more than three hundred dollars, for each offense. Any person, firm or corporation acting as a distributor of motion picture films who shall deliver to an exhibitor or other person for public exhibition within the

state of Kentucky, any motion picture film to which is not attached or which is not accompanied by the leader of approval of not less than three feet in length, assigned to such film as shown on the certificate issued by the board of censors or the department of education, shall upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, for each offense. Any person, firm or corporation who shall publicly exhibit or show any motion picture within the state of Kentucky that contains parts or sections that have been ordered eliminated by the Kentucky board of censors or the department of education, or that contains any part or parts which have been added to the motion picture after the same has been censored and approved by the Kentucky board of censors or the department of education, shall upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, for the first offense, and shall be fined not less than three hundred dollars nor more than five hundred dollars for each separate subsequent offense. Any person, firm or corporation acting as a distributor of motion picture films who shall loan, rent, lease or deliver any film or films to any exhibitor or other person for public exhibition within the state of Kentucky, which film or films contain parts or sections that have been ordered eliminated by the Kentucky board of censors or the department of education or which contain any part or parts that have been added after the original film or films have been censored and approved by the Kentucky board of censors or the department of education, shall upon conviction thereof, be fined not less than three hundred dollars nor more than five hundred dollars for the first offense, and shall be fined not less than five hundred dollars nor more than one thousand dollars for each separate subsequent offense. Any person, firm or corporation who shall publicly exhibit or show within the state of Kentucky any motion picture when the certificate permitting the exhibition thereof has been revoked under the provisions of section three of this act, shall upon

conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars for the first offense, and shall be fined not less than three hundred dollars nor more than five hundred dollars for each separate offense. Any person, firm or corporation acting as a distributor of motion picture films who shall loan, rent, lease or deliver to any exhibitor or other person for public exhibition within the state of Kentucky any motion picture when the certificate permitting the exhibition thereof has been revoked under the provisions of section three of this act, shall upon conviction thereof, be fined not less than three hundred dollars nor more than five hundred dollars for the first offense, and shall be fined not less than five hundred dollars nor more than one thousand dollars for each separate subsequent offense.

§ 7. *Counterfeiting official leader or stamp of approval prohibited; penalty.* Any person or agent, employee or officer of a corporation or firm who shall counterfeit such hereinbefore described official leader or stamp of approval or use or have in his possession such a counterfeit leader or any similar designation not issued by the board of censors, shall upon conviction thereof, be fined not less than one hundred dollars nor more than three hundred dollars, or be imprisoned not less than thirty days nor more than one year, or both for such offense. All violations hereof shall be tried in any court of this Commonwealth having jurisdiction as now provided by law.

§ 8. *Petition for hearing.* Any person in interest being dissatisfied with any order of such board shall have the same rights and remedies as to filing a petition for hearing on the reasonableness and lawfulness of any order of such board or to set aside, vacate or amend any order of such board as is provided in the case of persons dissatisfied with the orders of the Department of Revenue.

§ 9. All appeals from orders of the State Board of

Censorship shall be heard in the Franklin Circuit Court with appeal to the Court of Appeals.

By Mr. Vansant.

H. B. 221. An Act relating to alimony, and amending section 2122 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2122 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

If the wife have not sufficient estate of her own she may, on a divorce obtained by her, have such allowance out of that of her husband as the court shall deem equitable, and be restored to the name she had before marriage, if she desires it. Alimony may be granted in a lump sum, or by monthly, quarterly, or annual installments, But no court shall award alimony to any wife unless, at the time of the award:

(1) She has one or more living dependent children, of which the divorced husband is the father, and of which she has custody; or

(2) She is over fifty years of age and has lived with the divorced husband as his lawful wife for at least ten consecutive years; or

(3) She proves, by the sworn statement of a reputable physician that, in his judgment, her health or physical or mental handicaps do not permit her to earn an adequate living for herself.

Alimony shall in no case exceed one-third of the husband's net income for the wife and an additional one-third thereof for the support of children, or in case of a lump sum payment one-third of the husband's net estate and an additional one-third of the net estate for the support of children.

In computing alimony, the income received by the wife from any source shall be deducted from each periodic payment awarded, and in case of a lump sum payment the wife's net estate shall be deducted from the lump sum awarded.

§ 2. Whereas, excessive awards of alimony have been and still are a source of injustice and oppression in this state, and often have no reasonable relation to the ability of the husband to pay or to the actual needs of the wife, an emergency is declared to exist, and this Act shall take effect immediately upon its passage and approval by the Governor.

By Mr. Sparks.

H. B. 222. An Act to repeal section 425 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 99 of the Acts of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 425 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 99 of the Acts of 1938, is repealed.

Ordered that said bills be printed and referred.

The Committees to which the same had been previously referred, reported bills and resolutions of the following titles, viz.:

By Mr. Vance of the Committee on State and National Parks.

H. B. 113. An Act in relation to the acquisition and use of property for a national Mississippi River Parkway.

By Mr. Bosworth of the Committee on Codes of Practice.

H. B. 76. An Act construing certain provisions in deeds and wills; defining powers of grantees, etc.

Without an expression of opinion.

By Mr. McPherson of the Committee on Public Health No. 1.

H. B. 147. An Act to restrict the sale of rubbing alcohol to medicinal purposes only and penalties thereto for violations of same.

H. B. 174. An Act to regulate the use of certain types of text books in the public schools of Kentucky and to provide penalties for the violations of this Act.

H. B. 6. An Act repealing Chapter 55 of the Kentucky Acts, Regular Session, 1938.

Without an expression of opinion.

By Mr. Howard of the Committee on Revenue and Taxation No. 1-A.

H. B. 69. An Act to regulate and license real estate brokers and salesmen and to create a state real estate board.

Without an expression of opinion.

H. B. 72. An Act to regulate auctioneers, assistants at auction sales and auction marketing commissions, to create a state auction marketing board, etc.

Without an expression of opinion.

By Mr. Daugherty of the Committee on Kentucky Statutes No. 1.

H. B. 138. An Act relating to financial statements of persons, firms and corporations handling public money, etc.

With a Committee Amendment thereto.

H. B. 141. An Act to amend sec. 2 of Chapter 21 of the Acts of 1938, first extraordinary session, compiled as section 4149 of Baldwin's Kentucky Statutes Service, April 1939.

H. B. 137. An Act to amend Sec. 1682 of Carroll's Kentucky Statutes, 1936 Edition, relating to the sale of land under executions.

By Mr. Rigdon of the Committee on Claims.

H. Res. 22. Resolution authorizing E. M. Addington of Island, McLean county, Kentucky to sue the Commonwealth.

H. Res. 21. Resolution authorizing Eula Morgan to file suit against the Commonwealth of Kentucky.

H. Res. 20. Resolution authorizing Mary E. Tincher to sue the Commonwealth of Kentucky.

Without an expression of opinion.

H. Res. 19. Resolution authorizing Adrian Butler and Mrs. Adrian Butler, his wife, to sue the Commonwealth, etc.

Without an expression of opinion.

H. Res. 18. Resolution authorizing J. E. Monroe of Greensburg, Kentucky to sue the Commonwealth.

H. Res. 17. Resolution authorizing Harve Kegley to sue the Commonwealth of Kentucky and/or the State Highways Department.

Without an expression of opinion.

H. Res. 16. Resolution authorizing E. Pinkston of Fisherville, Jefferson county Kentucky to sue the Commonwealth.

H. Res. 15. Resolution authorizing Page Motor Company, Elizabethtown, Kentucky to file suit against the Commonwealth.

H. Res. 13. Resolution for the payment to the Hon. W. B. Lackey, Chief of Police of Richmond, Kentucky the sum of $73.20.

H. Res. 12. Resolution authorizing John Cox of Pomeroyton, Menifee county, Kentucky to sue the Commonwealth.

H. Res. 11. Resolution providing for the payment of doctors and hospital bills of Alford Lawson.

H. Res. 10. Resolution authorizing James V. Clark to sue the Commonwealth of Kentucky and the Highway Commission.

H. Res. 9. Resolution appropriating and authorizing the payment to Joe Holcomb of the city of Jenkins, Letcher county, Kentucky, the sum of $654.44.

H. Res. 8. Resolution authorizing Zill Whitney to file suit against the Commonwealth of Kentucky and the State Highway Commission.

H. Res. 7. Resolution authorizing Malcom Godsey, Sr., to sue the Commonwealth.

H. Res. 6. Resolution authorizing Rosamond McCallister or her personal representative, to sue the Commonwealth.

Without the expression of opinion that said bills and resolutions ought to pass with the exception of those specifically set out above.

Said bills and resolutions were read at length the first time and ordered to be placed on the Calendar.

Mr. Daugherty of the Committee on Kentucky Statutes No. 1 to which the same had been previously referred reported bills of the following titles, viz.:

H. B. 122. An Act providing for the recovery of damages by persons bitten by dogs and creating a libility of owners of such dogs.

H. B. 23. An Act providing for the legalizing and licensing and regulation of establishments wherein bets or wagers may be made or placed on horse races run at recognized and legal race courses.

With the expression of opinion that said bills ought not to pass.

No motion having been made to advance said bills to a reading, the report of the Committee to the contrary notwithstanding, and no further action having been taken by the House on said bills, it was ordered that said bills be not read at length the first time and so said bills were rejected.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 95. An Act to change the time of holding the terms of circuit court in the 37th Judicial District.

H. B. 89. An Act to amend Sec. 965, Carroll's Kentucky Statutes, 1936 Edition, and changing the time of holding court in the 31st Judicial District composed of Floyd and Knott counties.

H. B. 50. An Act to amend Sec. 965 of Carroll's Kentucky Statutes, in so far as it relates to the time of holding the terms of circuit court in the 37th Judicial District.

H. B. 33. An Act amending and re-enacting Sec. 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision relating to the inadmissibility of confession obtained by sweating.

H. B. 107. An Act to amend and re-enact as amended, Sec. 110, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, relative to certain officers who are not permitted to practice law.

H. B. 68. An Act to repeal subsec. 9 of Sec. 518 of the Civil Code of Practice of Kentucky.

H. B. 20. An Act to amend and re-enact Sec. 317, 326, 327, 328 of the Civil Code of Practice so as to permit the finding of Special Verdicts by Juries in addition to general or separate-general verdicts.

H. B. 19. An Act to repeal Section 574 of the Code of Practice in Civil cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

H. B. 88. An Act to amend and re-enact Sec. 3181 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 29. An Act to require the payment of a fee to the Attorney General by each person required by law to register with the Attorney General as a lobbyist or legislative agent; etc.

With a Committee Amendment thereto.

H. B. 63. An Act adopting as the law of the Commonwealth of Kentucky the Supplement to Carroll's Kentucky Statutes compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in April 1939 and October, 1939, and known as Baldwin's Kentucky Statute Service.

H. B. 64. An Act adopting as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky the Supplement to Carroll's Kentucky Codes Civil and Criminal compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1939.

H. B. 98. An Act repealing and re-enacting Sec. 1 of Chapter 36 of the Acts of the General Assembly of 1938, and Section 7 of Chapter 106 of the Acts of the General Assembly of 1938, being subsec. 2739g-34a and 2739g-34a of Baldwin's Kentucky Statutes, 1938 Supplement, relating to driving a motor vehicle while intoxicated and prescribing penalty therefor.

H. B. 179. An Act to amend and re-enact Sec. 1727, Carroll's Official Kentucky Statutes, 1936 Edition as revised by Baldwin's Kentucky Statute Service, 1938 Supplement, which section is a part of Article 2, Chapter 47, relating to fees.

H. B. 86. An Act relating to fish and game and providing a method for raising additional funds for the purchase and propagation thereof, etc.

H. B. 104. An Act requiring serological blood tests for syphilis on pregnant women; providing for its administration and prescribing penalties for the violation thereof.

With a Committee Amendment thereto.

H. B. 152. An Act amending Sec. 1459 Carroll's Kentucky Statutes, Baldwin's revision of 1936, being a part of the laws enacted by the General Assembly in 1918, Chapter 37 at page 106, section 3 governing the publication, stating of the question upon the ballot and submission of constitutional amendments for vote of the people, etc.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Hunnicutt moved that the privilege of the floor be extended to Messrs. Bernie Shively and A. H. Edlen of Lexington, Kentucky.

Said motion was agreed to.

Mr. Moebus moved that the privilege of the floor be extended to Mr. William Hayes.

Said motion was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration a bill entitled:

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers and penalties relating to the listing, assessment, and taxation of certain intangible property.

Said motion was agreed to.

Thereupon the House took up for immediate consideration from the Orders of the Day, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Notes and accounts receivable in the amount owned or possessed as of the date herein specified shall be listed,

valued, and assessed as of the first day of January of each year, commencing January 1, 1940 for the tax year 1941-42, and the person owning or possessing the same on such day shall remain bound for the tax notwithstanding he may have sold or parted with it. However, the list of such accounts and notes shall be given to the assessing officer at the same time and in the same manner as all other intangible property which should be listed with the county tax commissioner in the first instance, and the assessment of, and the procedure for collecting the tax imposed upon such accounts and notes shall be the same as now or hereafter provided by law except as herein or hereafter provided.

§ 2. Any assessment of accounts receivable and notes which were listed with the county tax commissioner or the county board of supervisors shall be subject to being re-opened by the Department of Revenue within three years and six months after the date as of which they were assessed, unless the assessed value thereof is the face value or has been established by a court of competent jurisdiction.

If upon reopening such assessment the Department of Revenue shall find that the assessment was less than the fair cash value and should be increased it shall give notice thereof to the taxpayer, who may within fifteen (15) days thereafter appear before the Kentucky Tax Commission in Frankfort and offer evidence to show that no increase should be made. The taxpayer may appeal from any such additional assessment as provided in sections 5 and 5a, Chapter 4, Acts of the First Extraordinary Session of the 1938 General Assembly.

Upon such assessment becoming final the Department of Revenue shall certify it to the appropriate county court clerk for the preparation of a tax bill therefor, which shall be prepared in the same manner and subject to the same conditions as in the case of omitted tax bills. Such tax bill shall be handled and collected as an omitted tax bill, and if issued on or after the date on which the tax would have become

delinquent had the property been properly and timely assessed by the county tax commissioner and the county board of supervisors, it shall include interest at the rate of one-half of one per cent (½ of 1%) per month or fractional part thereof, computed from such date and shall become due and payable upon notice to the taxpayer thereof and shall be delinquent sixty (60) days from the date of such notice. Upon becoming delinquent the total amount of such tax shall bear interest at the rate of one-half of one per cent (½ of 1%) a month or fractional part thereof, and penalty of six per cent (6%) of the total amount of the bill shall be paid.

All such delinquent tax bills shall constitute liens on all property of the taxpayer in accordance wth section 9, Chapter 21, Acts of the General Assembly of 1936, Fourth Extraordinary Session.

§ 3. Persons, associations of persons, corporations, or partnerships listing property with the county tax commissioner or the county board of supervisors for taxation shall reveal the face value of all intangibles listed (except stocks, cash or bank deposits) on the form prescribed by the Department of Revenue for listing intangible property. Failure to so reveal the face value shall constitute a misdemeanor and subject the person so failing to a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

A reduction of fifty cents (50c) shall be made from the county tax commissioner's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, save stocks, cash or bank deposits.

§ 4. Section 2 hereof is intended to apply retroactively to all assessments of accounts receivable and notes which may be constitutionally reopened.

§ 5. *Severability.*—If any provision, section, paragraph or phrase hereof, or if the application thereof to any person,

circumstance, or condition shall be held invalid, such decision shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent that the remainder of this Act would have been passed by the General Assembly without the invalid section, paragraph or phrase, or that the General Assembly would have passed this Act without intending the application of it to such person, circumstance, or condition.

Mr. Neikirk moved that said bill be laid on the table.

Said motion was disagreed to.

Mr. Chapman offered the following amendment thereto by way of Substitute therefor, viz.:

AN ACT relating to revenue and taxation and prescribing certain duties, powers, and penalties relating to the listing, assessment, and taxation of certain intangible property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any assessment of accounts receivable and notes which were listed with the county tax commissioner or the county board of supervisors shall be subject to being reopened by the Department of Revenue within three years after the date as of which they were assessed, unless the assessed value thereof is the face value or has been established by a court of competent jurisdiction.

If upon reopening such assessment the Department of Revenue shall find that the assessment was less than the fair cash value and should be increased, it shall give thereof to the taxpayer, who may within fifteen (15) days thereafter protest to the Department of Revenue and offer evidence to show that no increase should be made. After the Department of Revenue shall have disposed of such protest, the

taxpayer may appeal from any such additional assessment as provided in sections 5 and 5a, Chapter 4, Acts of the First Extraordinary Session of the 1938 General Assembly.

Upon such assessment becoming final the Department of Revenue shall certify it to the appropriate county court clerk for the preparation of a tax bill therefor, which shall be prepared in the same manner and subject to the same conditions as in the case of omitted tax bills. Such tax bill shall be handled and collected as an omitted tax bill, and if issued on or after the date on which the tax would have become delinquent had the property been properly and timely assessed by the county tax commissioner and the county board of supervisors, it shall include interest at the rate of one-half of one per cent (½ of 1%) per month or fractional part thereof, computed from such date and shall become due and payable upon notice to the taxpayer thereof and shall be delinqnent sixty (60) days from the date of such notice. Upon becoming delinquent the total amount of such tax bill bear interest at the rate of one-half of one per cent (½ of 1%) a month or fractional part thereof, and penalty of six per cent (6%) of the total amount of the bill shall be paid.

All such delinquent tax bills shall constitute liens on all property of the taxpayer in accordance with section 9, Chapter 21, Acts of the General Assembly of 1939, Fourth Extraordinary Session.

§ 2. Persons, associations of persons, corporations, or partnerships listing property with the county tax commissioner or the county board of supervisors for taxation shall reveal the face value of all intangibles listed (except stocks, cash or bank deposits) on the form prescribed by the Department of Revenue for listing intangible property.

A reduction of fifty cents (50c) shall be made from the county tax commissioner's compensation for each list he accepts upon which there is an omission to reveal the face

value of any intangible property listed, save stocks, cash or bank deposits.

§ 3. The Department of Revenue or any properly authorized agent thereof shall have access during all reasonable hours to all records, papers, accounts, statements or other information of record of any person, association of persons, corporation or partnership which the Department has reason to believe may have underassessed or omitted from assessment notes or accounts receivable or which may have a direct bearing upon the assessment of the accounts receivable and notes of any such person.

The Department of Revenue is hereby authorized to make such reasonable rules and regulations as are necessary for the administration of the provisions of this Act.

Any person, association of persons, corporation or partnership failing to comply with the provisions of this Act shall upon conviction thereof pay a fine of not less than twenty-five dollars ($25) or more than five hundred dollars ($500) for each failure to so comply.

§ 4. Section 1 hereof is intended to apply retroactively to all assessments of accounts receivable and notes which may be constitutionally reopened.

§ 5. Severability.—If any provision, section, paragraph or phrase hereof, or if the application thereof to any person, circumstance, or condition shall be held invalid, such decision shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent that the remainder of this Act would have been passed by the General Assembly without the invalid section, paragraph or phrase, or that the General Assembly would have passed this Act without intending the application of it to such person, circumstance or condition.

Mr. Chapman moved that said bill be made a Special Order of the Day for Friday, January 26, at twelve o'clock Meridian.

Said motion was agreed to.

Mr. Milam moved that the Clerk of the House be directed to have printed the Substitute as offered by Mr. Chapman.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 54. An Act to license and regulate the standing of animals for public service.

With a Committee amendment thereto by way of Substitute therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *License for standing stud, jack or bull required.* (1) No person shall stand a studhorse, jack or bull in this State without having first procured an annual license from the county clerk for each animal. The applicant for a license shall state on oath the largest amount he intends to charge, directly or indirectly, for the services of the animal, and if in property or other things, the value thereof.

(2) The Department of Agriculture, Labor and Statistics shall provide blanks upon which shall be recorded the breed, name, age, color, sire and dam of the animal, the name and post office address of the owner, and a statement as to whether the animal is registered in any stud book, naming the volume and page in which the registry is contained.

§ 2. *Registry fee, license tax.* (1) Before a license is issued the applicant shall pay to the clerk the sum of one dollar as a registration fee. The fee shall be forwarded to the Department of Agriculture, Labor and Statistics.

(2) Every person who stands a studhorse, jack or bull in this state shall pay to the state, as an annual license tax for the privilege, a sum equal to twenty per cent of the greatest sum charged for the services of each animal stood during the year, whether the charge be for a season or to insure a get, but the minimum tax shall be ten dollars for a studhorse or jack, and one dollar for a bull.

§ 3. *Use of funds received.* The sums derived from the license tax and registration fees shall be placed in the state treasury to the credit of a revolving fund to be used for the ordinary recurring expenses of the Department of Agriculture, Labor and Statistics.

§ 4. *Penalty.* Any person who stands a studhorse, jack or bull without having first procured a license shall be fined not less than five dollars nor more the five hundred dollars. Each service is a separate offense.

§ 5. Since many animals are stood in the spring of the year, and there is urgent need for the revenue provided by this Act, an emergency is declared to exist and this Act shall take effect on its passage and approval by the Governor.

Said Substitute is as follows, viz.:

AN ACT to license and regulate the standing of animals for public service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *LICENSE FOR STANDING STUD, JACK OR BULL REQUIRED.* (1) No person shall stand a studhorse, jack or bull in this State without having first procured

an annual license from the county clerk for each animal. The applicant for a license shall state on oath the largest amount he intends to charge, directly or indirectly, for the services of the animal, and if in property or other things, the value thereof.

(2) The Department of Agriculture, Labor and Statistics shall provide blanks upon which shall be recorded the breed, name, age, color, sire and dam of the animal, the name and post office address of the owner, and a statement as to whether the animal is registered in any stud book, naming the volume and page in which the registry is contained

§ 2. *REGISTRY FEE, LICENSE TAX.* (1) Before a license is issued the applicant shall pay to the clerk of the county court the sum of one dollar as a registration fee. The fee shall be forwarded to the Department of Agriculture, Labor and Statistics. In addition to the foregoing the applicant for license shall pay to the clerk his fee of One Dollar ($1.00) for the issuance of the license as provided in Section 1720.

(2) Every person who stands a studhorse, jack or bull in this State shall pay to the State, as an annual license tax for the privilege, a sum equal to twenty per cent of the greatest sum charged for the services of each animal stood during the year, whether the charge be for a season or to insure a get, but the minimum tax shall be Ten Dollars ($10.00) for a studhorse or jack, and One Dollar ($1.00) for a bull.

§ 3. *USE OF FUNDS RECEIVED.* The sums derived from the license tax and registration fees shall be placed in the state treasury to the credit of a revolving fund to be used for the ordinary recurring expenses of the Department of Agriculture, Labor and Statistics.

§ 4. *PENALTY.* Any owner or other person who stands a studhorse, jack or bull shall not be entitled to a lien on the get from such stand unless he has complied strictly

with the provisions of this Act, if however, such owner or other person does comply with the provisions of this Act a two year lien on the get shall attach. Any person who stands a studhorse, jack or bull without having first procured a license shall be fined not less than Five Dollars ($5.00) nor more than Five Hundred Dollars ($500.00). Each service is a separate offense.

§ 5. Since many animals are stood in the spring of the year, and there is urgent need for the revenue provided by this Act, an emergency is declared to exist and this Act shall take effect on its passage and approval by the Governor.

Mr. King offered the following amendments to said Substitute, viz.:

1. Amend Committee Substitute for H. B. 54 by adding at the end of line 4, section 3, following the word "statistics," the following, "Nothing in this Act shall be construed as being in conflict with the Governmental organization Act of 1936."

2. Amend Committee Substitute for H. B. 54 at the end of line 6, section 2 following the words "Section 1720", by adding the following "The clerk of the county court shall, on the first day of each month following the enactment of this bill, submit a report to the Commissioner of Agriculture, Labor and Statistics, stating the number of licenses issued during the preceeding month, and shall remit to the state treasury the license tax and registration fees for such licenses as have been issued."

3. Amend the Committee Substitute for H. B. 54 at the end of line 11, section 2 following the word "bull" by adding the following "The maximum license tax which may be charged under the terms of this Act shall not exceed $100.00 for any one animal."

4. Amend Committee Substitute for H. B. 54 by striking

out all of section 3 and inserting the following "Section 3. The sums derived from the license tax and registration fees shall be placed in the state treasury to the credit of a revolving fund to be used in paying bovine tuberculosis indemnities on destroyed cattle, demonstration work and the state's part in fruits and vegetable inspection."

Said amendments were each and severally agreed to.

Said Substitute was then adopted, as amended.

Mr. Walters moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	C. J. Bronston	W. Q. Daniel
Robert E. Barry	Gus A Brooks	F. E. Daugherty
Wm. T. Beard	Randolph A. Brown	Stanley S. Dickson
Alvis S. Bennett	Haynes Carman	Forest C. Easley
Rell Bevins	Charles M. Carter	D. E. Edwards
Sterling B. Blake	John Coulter	R. R. Ernst
J. F. Bosworth	John H. Cox	Carlos Fallis
W. S. Brim	Pink G. Curd	T. P. Fitzpatrick

Cecil Florence	C. C. May	Faust Y. Simpson
Wayne Freeman	T. B. McConnell	Bruce Sloan
Eugene Gough	Frank C. McElwain	Otto Smither
Ralph C. Hamilton	E. Hayes McMakin	G. C. Springate
C. L. Hammons	Norris McPherson	J. Claude Stacy
T. H. Hickey	Stanley C. Moebus	Ray J. Stengel
Clyde S. Howard	John B. Mollette	Henry Stewart
Chester Huffines	Davis Moore	W. St. Clair Stuart
John M. Hunnicutt	J. Lee Moore	Otis C. Thomas
W. H. Hunt	C. Homer Neikirk	J. Wood Vance
R. L. Jackson	Carl D. Perkins	Walter R. Vansant
J. B. Jarboe, Jr.	B. W. Porter	S. J. Wagner
Chas. X. Jones	H. O. Porter	Porter Wallace
John S. Juett	Kleber F. Price	Harry F. Walters
William K. King	Thomas Rigdon	Henry Ward
W. A. Lamkin, Jr.	Joe E. Robinson	H. L. Waterfield
Harvey D. Leonard	Jack Savage	Otis White
Edward Leslie	Carl Scheben	James H. Woods
W. Paul Lyon	Ray O. Shehan	—80

Those who voted in the negative were—

E. T. Sparks —1

Resolved that the title thereof be as amended.

Mr. Walters moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. King moved that the privilege of the floor be extended to Messrs. Virgil Steed and Headley Shouse of Lexington, Kentucky.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 159. AN ACT to amend Chapter ninety-four of the Acts of 1936 and Chapters fifty-six, fifty-seven, and fifty-eight of the Acts of 1938, relating to Old Age Assistance.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter ninety-four of the Acts of 1936 and Chapters fifty-six, fifty-seven, and fifty-eight of the Acts of 1938 are amended to read as follows:

Section 1. *Definitions.*

(1) "Old Age Assistance" means money payments and such services as may be necessary to provide for the welfare of the needy aged;

(2) "Needy Aged" means an aged person who is unable to provide himself, or who does not have otherwise provided for him a reasonable subsistence compatible with decency and health, and who may, or may not, need the services of others in making social adjustments for his welfare;

(3) "Applicant" means a person who has applied for Old Age Assistance under this Act;

(4) "Recipient" means a person who is receiving Old Age Assistance under this Act;

(5) "State Department" means the State Department of Welfare.

Section 2. *Eligibility for Old Age Assistance.* Old Age Assistance shall be granted to any needy aged who:

(1) Has attained the age of sixty-five;

(2) Has been a resident of the State for five of the last nine years and for one year immediately preceding the application for Old Age Assistance;

(3) Is a citizen of the United States;

(4) Is not at the time of receiving Old Age Assistance an inmate of any public or private institution except for temporary medical or surgical care in a hospital;

(5) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for Old Age Assistance.

Section 3. *Amount of Old Age Assistance to be granted.* The amount of Old Age Assistance which shall be granted to, or for, any needy aged shall be determined with due regard to the resources and requirements of the individual and the conditions existing in each case and shall be sufficient, when added to all other income and support available to the needy aged, to provide the needy aged with a reasonable subsistence compatible with decency and health, provided such old age assistance granted shall not exceed thirty dollars for any month.

Section 4. *Duties of the State Department.*

(1) The State Department shall:

(a) Administer all funds appropriated or made available to it for the purpose of this Act;

(b) Receive and administer such Federal Funds as are made available and shall prepare and submit such reports as may be required by the Federal Government with respect to Old Age Assistance;

(c) Development standards and policies for Old Age Assistance;

(d) Develop standards of service for the administration of Old Age Assistance in the State;

(e) Coordinate the functions of the several Divisions within the State Department to provide the greatest possible service to the aged;

(f) Cooperate with the Division of Personnel Efficiency in the State Department of Finance in establishing standards for personnel employed in the administration of this Act, and make rules and regulations necessary to maintain these personnel standards;

(g) Provide such forms, records and reports as are necessary with respect to the administration of this Act.

(2) The State Department shall make such rules and regulations and take such action as may be necessary or desirable from time to time for the efficient administration of this Act and these rules and regulations shall provide for uniform practice of this Act throughout the State.

(3) The Commissioner of Welfare shall appoint in accordance with the Governmental Reorganization Act of 1936 such personnel, professional or otherwise, as are necessary to properly administer this Act.

Section 5. *Confidential Nature of Records.* All applications and records concerning any applicant and recipient and the name of any applicant and recipient shall be confidential, and the State Department shall establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files and communications of the State Department.

Section 6. *Right of Appeal.* An applicant or a recipient of Old Age Assistance, who is dissatisfied with the decision on his application, or because of delayed action on his application, for Old Age Assistance or the amount of Old Age Assistance granted to him may appeal to the State Department in the manner and form prescribed by rules and regulations which shall provide that on receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing.

Section 7. *Old Age Assistance not assignable.* All Old Age Assistance granted under this Act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the State.

Acknowledgment of documents. All representatives of the State Department shall have the power to administer oath to or take the acknowledgment of any person when carrying out the provisions of this Act and when needed for the administration of this Act.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	Ralph C. Hamilton	H. O. Porter
H. T. Baker	C. L. Hammons	Kleber F. Price
Robert E. Barry	T. H. Hickey	Thomas Rigdon
Wm. T. Beard	Clyde S. Howard	Joe E. Robinson
Alvis S. Bennett	Chester Huffines	Lyman Roll
Rell Bevins	John M. Hunnicutt	Jack Savage
Sterling B. Blake	W. H. Hunt	Carl Scheben
Douglas T. Bolling	R. L. Jackson	Leon J. Shaikun
J. F. Bosworth	J. B. Jarboe, Jr.	Ray O. Shehan
W. S. Brim	Chas. X. Jones	Faust Y. Simpson
Gus A. Brooks	John S. Juett	Bruce Sloan
Randolph A. Brown	William K. King	Otto Smither
Haynes Carman	W. A. Lamkin, Jr.	E. T. Sparks
Charles M. Carter	Harvey D. Leonard	G. C. Springate
James W. Chapman	Edward Leslie	J. Claude Stacy
S. B. Chrisman	W. Paul Lyon	Ray J. Stengel
John Coulter	C. C. May	Henry Stewart
John H. Cox	T. B. McConnell	W. St. Clair Stuart
Pink G. Curd	Frank C. McElwain	T. M. Swope
W. Q. Daniel	E. Hayes McMakin	Otis C. Thomas
F. E. Daugherty	Norris McPherson	Erna E. Tyra
Stanley S. Dickson	G. Sam Milam	J. Wood Vance
Forest C. Easley	Stanley C. Moebus	Walter R. Vansant
D. E. Edwards	John B. Mollette	S. J. Wagner
R. R. Ernst	Davis Moore	Porter Wallace
Carlos Fallis	J. Lee Moore	Henry Ward
T. P. Fitzpatrick	Joe T. Morgan	H. L. Waterfield
Wayne Freeman	C. Homer Neikirk	Otis White
Eugene Gough	Carl D. Perkins	James H. Woods
Van Y. Greene	B. W. Porter	Mr. Speaker

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Resolved that the title thereof be as aforesaid.

Mr. Huffines moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on to-morow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, JANUARY 25, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend C. W. Grant of the Methodist Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Gus A. Brooks	Stanley S. Dickson
J. Everett Bach	Randolph A. Brown	D. E. Edwards
H. T. Baker	Haynes Carman	Harry W. Ennis
Robert E. Barry	Charles M. Carter	R. R. Ernst
Wm. T. Beard	James W. Chapman	Carlos Fallis
Rell Bevins	S. B. Chrisman	T. P. Fitzpatrick
Sterling B. Blake	John Coulter	Cecil Florence
Douglas T. Bolling	John H. Cox	Wayne Freeman
J. F. Bosworth	Pink G. Curd	Eugene Gough
W. S. Brim	W. Q. Daniel	Van Y. Greene
C. J. Bronston	F. E. Daugherty	Ralph C. Hamilton

C. L. Hammons	Norris McPherson	Faust Y. Simpson
T. H. Hickey	G. Sam Milam	Bruce Sloan
Clyde S. Howard	Stanley C. Moebus	Otto Smither
Chester Huffines	John B. Mollette	E. T. Sparks
John M. Hunnicutt	Davis Moore	G. C. Springate
W. H. Hunt	J. Lee Moore	J. Claude Stacy
R. L. Jackson	Joe T. Morgan	Ray J. Stengel
J. B. Jarboe, Jr.	C. Homer Neikirk	Henry Stewart
Chas. X. Jones	Carl D. Perkins	W. St. Clair Stuart
John S. Juett	B. W. Porter	T. M. Swope
William K. King	H. O. Porter	Otis C. Thomas
W. A. Lamkin, Jr.	Kleber F. Price	Erna E. Tyra
Robert E. Lee	Hobart Rayburn	J. Wood Vance
Harvey D. Leonard	Thomas Rigdon	Walter R. Vansant
Edward Leslie	Joe E. Robinson	Porter Wallace
W. Paul Lyon	Lyman Roll	Harry F. Walters
C. C. May	Jack Savage	Henry Ward
T. B. McConnell	Carl Scheben	H. L. Waterfield
Frank C. McElwain	Leon J. Shaikun	Otis White
E. Hayes McMakin	Ray O. Shehan	James H. Woods

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Mr. Bach moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Scheben moved that the session of to-day be extended indefinitely.

Said motion was agreed to.

Mr. Fallis offered the following resolution, viz.:

WHEREAS, the Frankfort Community Players will present "And Stars Remain", a play with a current political touch, at the Frankfort High School Auditorium on the evenings of Wednesday, January 31st and Thursday, February 1, 1940 at 8:15, and

WHEREAS, it is to the advantage of the members of this General Assembly to keep informed as to ways of keeping their political fences in good order, and

WHEREAS, attractive young ladies will sell tickets for the production at the doors of the House and Senate Chambers, now therefore

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the members of the General Assembly are urged to attend the performance of "And Stars Remain" on one of the aforesaid nights.

Said resolution was adopted.

Mr. Milam moved that the Rules of this House be suspended and that the vote by which the clincher motion was applied to a bill entitled:

H. B. 1. An Act appropriating funds for the operation of the government of the Commonwealth of Kentucky for the biennial period, 1940-1941.

Which was passed on January 12, as amended by the Senate,

Be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Milam moved that the Rules of this House be suspended and that the vote by which said bill was passed, as amended, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Milam moved that the Rules of this House be suspended and that the vote by

which the House concurred in the amendment as proposed and adopted by the Senate, be reconsidered.

(For bill and amendment as proposed and adopted by the Senate, see House Journal of January 12)

Said motion was agreed to.

Thereafter such reconsideration, Mr. Milam moved that the House do now refuse to concur in said amendment and that the Senate be respectfully requested to withdraw said amendment.

Said motion was agreed to.

Thereupon the House refused to concur in said amendment.

Ordered that the Chief Clerk report the action of this House on said bill, to the Senate.

The following bills and resolutions were introduced, viz.:

By Mr. Carter.

H. B. 223. An Act to amend sections 4214a-13, 4214a-15, 4212a-17 and 4214a-20 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4214a-13 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Every person engaged or proposing to engage in manufacturing, selling and transporting distilled spirits in this state, for lawful uses and purposes, shall obtain a permit

from the Department of Revenue for that privilege, and shall, at the time the permit is issued, pay to the state, in addition to the license taxes imposed by law, an excise tax of *ten* cents for each proof gallon of distilled spirits for which the permit is issued. Permits heretofore issued shall remain in force and effect until the distilled spirits for which they were issued have been manufactured, sold and transported.

§ 2. Section 4214a-15 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Every person engaged or proposing to engage in the business or occupation in this state of blending, rectifying or mixing distilled spirits, and the sale and transportation thereof, for lawful uses and purposes, shall obtain a permit from the Department of Revenue for that privilege, and shall pay to the state, in addition to the license taxes imposed by law, an excise tax of *ten* cents for each proof gallon of distilled spirits for which the permit is issued.

(2) No tax is required to be paid for such distilled spirits used in blending, rectifying or mixing as were heretofore or shall hereafter be manufactured in this state or which have borne the tax imposed by section 4214a-13 or 4214a-17.

(3) Every person engaging in the business or occupation of blending, rectifying or mixing distilled spirits shall report to the Department of Revenue, on or before the tenth day of the succeeding month, in such form and stating such facts as the Department prescribes, the amount of distilled spirits blended, rectified or mixed during the preceding month, and shall at the same time pay the tax.

§ 3. Section 4214a-17 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Every person who purchases distilled spirits and has them shipped into this state from points without the state, as provided in section 4214a-16, shall at the time the permit is issued pay a license tax thereon at the rate of *ten* cents for each proof gallon contained in the shipment.

§ 4. Section 4214a-20 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

All license taxes collected under this Act shall be paid into the State Treasury. One-quarter shall be credited to the Common School Per Capita Fund, one-quarter to the Teacher Retirement Fund, one-quarter to a fund to be used to retire outstanding state warrants and the remaining one-quarter to the General Fund.

By Mr. Wood.

H. B. 224. An Act to amend section 216aa-3 and section 4618-106 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, relating to the administration of the charitable and correctional institutions of the State.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 216aa-3 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, is amended to read as follows:

The institutions hereby placed under the control and management of the State Department of Welfare are as follows:

Kentucky State Reformatory, LaGrange, Kentucky;

Frankfort Division of the Kentucky State Reformatory, Frankfort, Kentucky;

Women's Division of the Kentucky State Reformatory, Shelby County, Kentucky;

Kentucky State Penitenitary, Eddyville, Kentucky;

Houses of Reform, Greendale, Kentucky;

Eastern State Hospital, Lexington, Kentucky;

Central State Hospital, Lakeland, Kentucky;

Western State Hospital, Hopkinsville, Kentucky;

Feeble-minded Institute, Frankfort, Kentucky.

§ 2. That section 4618-106 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, is amended to read as follows:

The division of corrections, under the direction of the Commissioner of Welfare shall:

(1) Supervise and administer the Kentucky State Reformatory at LaGrange and its divisions located in Shelby County and at Frankfort, the Kentucky State Penitentiary at Eddyville and the Houses of Reform at Greendale;

(2) Supervise the employment of prisoners either within or without the walls or enclosures of these institutions.

The director of this division shall be a person thoroughly trained and experienced in penology and prison management.

By Mr. Carter.

H. B. 225. An Act to amend sections 4281c-2 and 4281c-24 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 108 of the Acts of 1938.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 4281c-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

There is hereby levied upon the sale or distribution by sale or gift of a tax of three dollars on each barrel of thirty-one gallons and a like or proportional rate per gallon, or fractional part thereof, on beer sold or distributed in any other container of more or less than thirty-one gallons.

§ 2. Section 4281c-24 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 108 of the Acts of 1938, is amended to read as follows:

All revenue collected under this Act shall be paid into the State Treasury. One-quarter of the revenue collected under section 4281c-2 shall be credited to the Common School

Per Capita Fund and one-quarter to the Teacher Retirement Fund. All other revenues collected under this Act shall be credited to the General Fund. Brewers and wholesalers of beer and wholesalers of wine and liquor may deduct three per cent from the amount of the taxes collected under this Act to cover expenses incident to the reporting and remitting of the taxes.

By Mr. Moebus.

H. B. 226. An Act requiring motor-trucks and semi-trailer trucks to be equipped with stop-lights, and lights and horns indicating the speed of the vehicle; and amending section 2739g-89 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 2739g-89 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

2739g-89. *Stop-lights, speed-lights; speed-horns.* (1) No person shall operate any motor-truck or semi-trailer truck on any highway unless it shall be equipped with a yellow or red light which shall automatically indicate the application of brakes and be visible from the rear a distance of not less than two hundred feet.

(2) No person shall operate a motor-truck or semi-trailer truck on any highway unless the motor-truck or semi-trailer truck, together with its semi-trailer, displays on both the front and rear thereof, in a horizontal line, approximately three inches apart, three blue lights, each three inches in diameter. The lights shall be so electrically connected to a speed registering unit that when the vehicle is operated at a speed of more than 25 miles per hour, but less than 35 miles per hour, one light shall be luminous; that when the vehicle is operated at a speed of more than 35 miles per hour, but less

than 45 miles per hour, two lights shall be luminous, and when the vehicle is operated at a speed of 45 miles per hour or greater, all three lights shall be luminous. The light when luminous shall be plainly visible in normal sunlight at a distance of at east five hundred feet.

(3) No person shall operate a motor-truck or semi-trailer truck on a highway unless it is so equipped with a device that will cause the horn on the vehicle to blow automatically when the vehicle is operated at a speed of 45 miles per hour or greater.

(4) The speeds indicated by the light and horn devices required by subsections (2) and (3) shall be prima facie evidence that such speeds were attained by the vehicle to which the signals are attached.

By same.

H. B. 227. An Act relating to the appointment of executors and administrators and the admission of wills to probate.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. No executor or administrator shall be appointed until the person requesting that the appointment be made has made and filed with the county court an application under oath, in an application book which shall be kept in the office of the county judge of the county, stating the full name, date of death, age at date of death, and last place of residence of the deceased; the name, age and post office address of the surviving spouse and next of kin of the deceased, as far as known; the estimated amount and value of the property left by the deceased; the amount of indebtedness owed to the deceased by the applicant; the name and post office address of the applicant; and if the applicant is for the appointment

of an administrator; that to the applicant's knowledge the deceased left no will.

§ 2. When application is filed for the appointment of an executor or administrator the county court shall set a time and place for hearing the application, at which all interested persons may appear and be heard. Notice thereof shall be given by the applicant to the surviving spouse and next of kin of the deceased, in the manner provided in sections 624 and 633 of the Civil Code, unless notice is waived by the persons entitled thereto.

§ 3. Section 3886 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The person named in the will as executor shall not act as such to any extent until the will, or an authenticated copy of it, is admitted to probate, his appointment has been approved by the county court after notice and hearing, and he has executed bond and taken the oath required by law in the court in which the probate is made; but he may provide for the burial of the testator, pay the reasonable funeral expenses, and take care of and preserve the estate.

§ 4. Section 4856 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

When a will is offered for probate the county court shall set a time and place for hearing the matter, at which all interested persons may appear and be heard. Notice thereof shall be given by the person offering the will to the surviving spouse and next of kin of the testator, and to such other persons as the court directs, in the manner provided in sections 624 to 633 of the Civil Code, unless notice is waived by the persons entitled thereto.

§ 5. Sections 4857, 4858 and 4860 of Carroll's Kentucky Statutes, 1936 edition, are repealed.

By same.

H. B. 228. An Act defining "safety glass" and providing for its use in busses of a certain type used and operated

on the highways of the Commonwealth of Kentucky, and repealing Subsection 2 of Section 13 of the Acts of the General Assembly of 1938, chapter 106, page 505.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Subsection 2 of Section 13 of the Acts of the General Assembly of 1938, chapter 106, page 505, which Section is Section 2738g-69b of Baldwin's Edition of Carroll's Kentucky Statutes, be and the same is hereby repealed, and in lieu thereof be enacted as follows:

Section 1. Definition of term "safety glass." The term "safety glass" as herein used shall be construed as meaning glass so treated or combined with other material as to reduce, in comparison with ordinary sheet or plate glass, the likelihood of injury to persons by objects from exterior sources or by glass when the glass is cracked or broken.

Section 2. Whenever glass is used in the windshield or in the window next to the driver in any bus, or in the doors or rear windows of a bus used for the transportation of persons for hire, it shall be unlawful to use ordinary glass in any such openings in any such vehicles when such vehicles are being operated on the highways of the Commonwealth of Kentucky, and it shall be unlawful to use in any such opening in any such vehicles, ordinary glass or anything other than safety glass as defined in Section 1 hereof. Provided, however, that this Act shall not become operative until on and after June 1, 1940, after which time, if it becomes necessary to replace glass in any of the openings described in this Section, safety glass shall be used in making such replacements; and provided further that on and after January 1, 1941, it shall be unlawful for any person, firm or corporation to sell any motor vehicle of the type herein referred to unless the openings in said motor vehicles herein described are equipped with safety glass as defined in Section 1 hereof; nor shall any new vehicle

be thereafter registered unless it is so equipped with safety glass in the openings in any such vehicle as hereinbefore described.

Section 3. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100.00 nor more than $1,000.00.

Section 4. All Acts or parts of Acts in conflict herewith are hereby repealed.

By same.

H. B. 229. An Act repealing Chapter 7 of the Acts of the General Assembly, Third Extraordinary Session, 1936.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 7 of the Acts of the Third Extraordinary Session of the General Assembly of 1936, entitled an Act related to the levying of a tax on corporate and individual incomes, being sections 1 to 39 inclusive of said chapter, and being known as sections 4281b-1 to 4281b-39 inclusive of Carroll's Statutes, Baldwin's 1936 Revision, are hereby repealed in their entirety.

By Mr. Hunt.

H. B. 230. An Act to provide for the qualification of hoisting engineer.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That, each and every applicant for position as hoisting engineers, where men are handled in and out of the mines, must hold certificate of competency, issued to him by the

department of mines and minerals after taking an examination held by the department of mines and minerals under its rules and regulations for such examination, must be at least 21 years of age, that he has had two years experience as fireman, at hoisting plants and is of good repute, and temperate habits, he shall pass an examination as to his experience in the handling hoisting machinery, and as to his practically and technological knowledge of the construction, cleaning and care of steam boiler, the care and adjustment of hoisting engines, the management and care of pumps, ropes, and winding apparatus and as to his knowledge of the law of this state, in relation to signals, and hoisting and lowering of men at mines.

Any one holding position of hoisting engineer prior to this Act for the past three years shall be issued certificate of competency from the Department of Mines and Minerals, otherwise he must appear before board for examination. The certificate of hoisting engineer may be canceled by the board of examiners if it shall be established in the judgment of said board that the holder thereof has become unworthy to hold said certificate by reason of violation of law, intemperate habits, willful negligence to comply wth the mining law. Provided that any person against whom charges are made shall have the right to appear before said board and defend against such charges and he shall have five days notice in writing of such charges.

By Mr. Roll.

H. B. 231. An Act relating to the annexation or reduction of territory in any city or town, including the annexation of another city or town or portion thereof, providing the procedure for same, and providing the rights and liabilities of the cities or towns so annexing, and further repealing sections two thousand seven hundred sixty-one (2761), two thousand seven hundred sixty-two (2762), two thousand seven hundred

sixty-three (2763), two thousand seven hundred sixty-four (2764), three thousand fifty (3050), three thousand fifty a (3050a), three thouand fifty a-one (3050a-1), three thousand fifty-three (3053), three thousand two hundred eighty-seven (3287), three thousand four hundred eighty-three (3483), three thousand six hundred eleven (3611), three thousand six hundred fourteen (3614), three thousand six hundred sixty-four (3664), three thousand six hundred sixty-seven (3667) in Carroll's Kentucky Statutes, Baldwin's 1936 revision, and sections two thousand seven hundred sixty-four (2764), two thousand seven hundred sixty-four-one (2764-1), two thousand seven hundred sixty-four-two (2764-2), Carroll's Kentucky Statutes, Baldwin's 1939 supplement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Whenever it is deemed desirable to annex any territory to any city or town or to reduce the boundaries thereof, the legislative body thereof may enact an ordinance defining accurately the boundary of the territory proposed to be annexed or stricken off, and such ordinance shall thereupon be published in at least five issues of the daily paper published in such city or town; or if there be no daily paper published in such city or town, then in at least two issues of a weekly paper published in the city or town; or if there be no daily or weekly paper published in such city or town, then by posting copies of the ordinance for at least ten (10) days in four of the most public places in the city or town. In not less than thirty days after the enactment of such ordinance, if the publication or notice, as herein provided, has been made or given, and no petition is filed in the circuit court as provided in the next section, the legislative body of such city or town may, by ordinance, annex to such city or town the territory described in the ordinance hereinbefore mentioned, or reduce the limits, as the case may be; and upon the enactment of such

ordinance, such territory shall become a part of such city or town, or shall be stricken therefrom.

§ 2. Within thirty days after the enactment of an ordinance proposing to annex territory to the city or town or reduce the limits thereof, one or more residents or freeholders of the territory proposed to be annexed or stricken off may file a petition in the circuit court of the county, setting forth the reasons why such territory or any part thereof should not be annexed, or why the limits should not be reduced. Summons shall be issued thereon, and be executed on the mayor of the city or chairman of the board of the town as in other cases, and the answer of the city or town shall be filed within twenty days after the service of the summons. The case shall be tried according to the rules and practice prescribed for the trial of the equity cases, but without the intervention of a jury. If the court be satisfied, upon the hearing, that less than seventy-five per cent of the freeholders of the territory to be annexed or stricken off have demonstrated, and that the adding or striking off of such territory to the city or town will be for the interests of the city or town and will cause no material injury to the owners of real estate in the territory sought to be annexed or stricken off, it shall so find and said annexation or reduction shall be approved. If the court shall be satisfied that seventy-five (75%) percent or more of the resident freeholders of the territory sought to be annexed or stricken off have remonstrated and that said change will cause material injury to the owners of real estate in the limits of the proposed extension or reduction, then, such annexation or reduction shall not take place. In case the court shall find that the proposed extension or reduction will not cause material injury to the city or town or to the owners of real estate in the limits of the proposed extension or reduction, then such annexation or reduction shall take place notwithstanding the remonstrance. An appeal from the judgment of the court may be taken, as in other cases, but there shall be no change of venue from the county. Costs shall follow the judgment. If

the judgment of the court be adverse to annexation or reduction no further effort to annex or strike off such territory shall be made within two years after the rendition of such judgment, however, any judgment rendered adverse to annexation, under any previous law, shall not be a bar to proceedings to annex under this Act regardless of time when such other judgment may have been rendered. When any unincorporated territory shall be proposed to be annexed to any city or town under the provisions of this Act, the court shall have the right and power to find any decree that all or a part or parts of such territory shall be added to such city or town, in which event the court shall specifically indicate and prescribe by metes and bounds, or other clear and specified description, the territory which the court finds should be so annexed, and that part only shall be annexed.

§ 3. The judgment shall, when entered, be certified to the legislative body of the city or town, who may thereupon annex to or strike from such city or town the territory described in the judgment, and such territory shall become or cease to become, as the case may be, a part of the city or town.

§ 4. In accordance with the provisions of this Act it shall be lawful for a city or town to annex the territory of a smaller city or town. But the city or town thus annexing the territory of another shall be bound for all the debts and liabilities, and shall be the owner of all corporate property, franchises and rights of such municipal corporation: Provided, that if only a portion of the territory of any city or town shall be annexed, the amounts of the existing debts and liabilities which such city or town shall be bound for shall be in proportion as the value of the property so annexed bears to the value of all the property of the city or town from which such territory is taken, as shown by the last preceding assessment of the assessor of such city or town.

§ 5. Be it further enacted that sections two thousand seven hundred sixty-one (2761), two thousand seven hundred sixty-two (2762), two thousand seven hundred sixty-three

(2763), two thousand seven hundred sixty-four (2764), three thousand fifty (3050), three thousand fifty-a (3050-a), three thousand fifty a-one (3050a-1), three thousand fifty-b (3050b), three thousand fifty-one (3051), three thousand fifty-three (3053), three thousand two hundred eighty-seven (3287), three thousand four hundred eighty-three (3483), three thousand six hundred eleven (3611), through three thousand six hundred fourteen (3614), three thousand six hundred sixty-four (3664) through three thousand six hundred sixty-seven (3667), Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and sections two thousand seven hundred sixty-four (2764), two thousand seven hundred sixty-four-one (2764-1), two thousand seven hundred sixty-four-two (2764-2), Carroll's Kentucky Statutes, Baldwin's 1939 supplement, be and the same are hereby repealed.

By Mr. Carter.

H. B. 232. An Act relating to master commissioners of circuit courts, and amending sections 392 and 394 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 392 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Each circuit court shall appoint a master commissioner, and may remove him and appoint another; but no master commissioner shall continue in office more than four years without a reappointment. Before acting, the master commissioner shall take the oath required by section 228 of the Constitution and shall execute a general bond, with surety approved by the court, for the faithful performance of the duties of his office. The bond shall be in a sum equal to the average amount of money and value of property which has

been, during the preceding five years, in the custody of the master commissioners of the same court. The premium on the bond shall be paid by the master commissioner. The bond shall be entered of record in the court, and shall be renewed annually, or oftener if required by the court.

§ 2. Section 394 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

He shall settle the accounts of insolvent estates adjudicated in the court of which he is master commissioner, and perform such other duties as the court may require of him. Whenever the master commissioner is about to receive, in any one action or proceeding, the custody of money or property which, when added to the money and property already in his custody, will exceed the amount of his general bond, the circuit judge shall require him to execute a special bond in an amount sufficient to cover all the money or property about to be received. The premium on the special bond shall be paid out of the fund covered by it. No action shall be maintained on the general bond for the matters covered by a special bond.

By same.

H. B. 233. An Act to amend section 1 of Chapter 46 of the Acts of 1938, compiled as section 3484 of Baldwin's Kentucky Statute Service, May, 1938, relating to cities of the fourth class.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Section 1 of Chapter 46 of the Acts of 1938, compiled as section 3484 of Baldwin's Kentucky Statute Service, May, 1938, is amended to read as follows:

Mayor and council; election; qualifications. The legislative power is vested in a mayor and not less than six nor more than twelve councilmen, as may be provided by ordinance.

Each councilman shall be a qualified voter in the city, a resident of the ward for which he stands for at least six months prior to his election, if the city is divided into wards, shall at the time of his election own real estate in the city assessed at not less than two hundred dollars ($200.00), and shall not hold any other civic office or be directly or indirectly interested in any contract with the city, or be in arrears to the city for money collected or withheld without settlement or quietus therefor. Any person who lacks one or more of these qualifications is ineligible to be a councilman, and the council shall declare his seat vacant and fill the vacancy. The mayor shall be elected by the people for a term of four years, and have the same qualifications as a member of the council. If any mayor, councilman or other officer of a city of the fourth class is directly or indirectly interested as agent or principal or surety in any contract with the city, his office shall be vacated thereby, and the contract, if entered into before he vacated his office, shall be void.

By same.

H. B. 234. An Act to regulate oil, gas and mineral wells.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* In this Act, except where the context requires otherwise:

(1) "Oil" means petroleum in its natural state.

(2) "Gas" means natural gas.

(3) "Well" means a bore hole drilled for the purpose of extracting oil, gas, or any mineral, other than fresh water, naturally occurring in a viscous, liquid, or gaseous form, whether or not any oil, gas, or other mineral is discovered.

(4) "Well operator" means any person, firm, association, business trust, syndicate, or corporation that proposes to or does drill, operate, or abandon any well.

(5) "Recondition" means to thoroughly clean, repair, and put in proper condition for commercial operation, and neither ordinary repairs nor the ordinary deepening or widening of an existing well shall be construed to be "reconditioning."

(6) "Log" means a record of drilling and other operations in connection with a well.

§ 2. *Acts for which permit is required.* No well operator shall drill any new well, or reopen or recondition an old or abandoned well, or complete an unfinished well which has been abandoned for six months or more, without first obtaining the drilling permit required by this Act.

§ 3. *Drilling permit; fee.* Application for a permit to drill, reopen, recondition or complete a well shall be filed with the county court clerk of the county in which the well is to be drilled, reopened, reconditioned or completed. A separate application, stating in detail the operations to be undertaken, shall be filed for each well. The well operator shall pay to the clerk, with each application, a fee of one dollar ($1.00). The clerk shall issue the permit in duplicate, and file the original in his office as a public record. Each permit shall be good until the operations permitted by it are finished, or until the well operator has allowed six months to elapse without beginning or continuing the permitted operations.

§ 4. *Annual drilling log to be filed; fee.* On or before the tenth day of January each well operator shall file with the county court clerk a complete log for the preceding year of each well drilled, widened, deepened, reopened, reconditioned, or completed by him in the county. The log shall describe by location and acreage the property on which each well is located, and shall give a complete, detailed record of the drilling or other work done at or in connection with the well during the preceding year, including progress of drilling operations, depth reached, and type of geological formations

penetrated. The well operator shall pay to the clerk, with each log filed, a fee of one dollar ($1.00).

§ 5. *Drilling log to be filed upon abandonment.* Within thirty (30) days after abandoning any well, the well operator shall file with the county clerk a log covering that part of the calendar year from January 1 to the date of abandonment, which log shall be similar in form and substance to the annual drilling log. For filing a log upon abandoning a well, the well operator shall pay to the clerk, for each well, a fee of one dollar ($1.00).

§ 6. *Disposition of fees.* One-half of the fees paid under this Act shall be retained by the county court clerk, and one-half shall be paid into the State Treasury and credited to the general fund.

§ 7. *Penalty for violation.* Any well operator who violates this Act shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00), or imprisoned not less than thirty days nor more than one year, or both. Where the well operator is not a natural person, the officer who directed or ratified the violation may be imprisoned. Each well drilled, reopened, reconditioned, completed or abandoned without a permit, and each failure to file a log as required by this Act, shall be a separate offense.

By Mr. Fitzpatrick.

H. B. 235. AN ACT relating to alcoholic beverages, repealing, amending and re-enacting section 75 of chapter 2, Acts of the Regular Session of the 1938 General Assembly.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Repeal, amend, and re-enact section 75 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, so that when amended and re-enacted it shall read as follows:

Retailing Near School, Hospital, Church, or Other Place of Worship; Exceptions.—No license for the sale of alcoholic beverages at retail may be granted for any premises which shall be located on the same street or avenue and within two hundred (200) feet of a building occupied exclusively as a school, hospital, church, or other place of worship, if the governing authority of such school, hospital, church, or other place of worship has filed with the Department of Revenue prior to the issuing of the license, a written protest setting forth the reasons for objection; except that a hotel, drug store or private club which has been bona fide in business as a licensee at that location for not less than one (1) year next preceding the passage of this Act or the establishment of said church, school or hospital, may be granted a license by the Administrator of the Distilled Spirits Unit, in the exercise of his sound discretion, even though within less than two hundred (200) feet of a building occupied exclusively as a school, hospital, church, or other place of worship. The measurement called for in this section shall be taken from the main entrance, of the school, hospital, church or other place of worship, to the main entrance of the building for which license is sought.

Any applicant for a new beer license at premises located within two hundred (200) feet of a school, hospital, church, or other place of worship, shall be required to advertise in the same manner as provided in section 35 of Chapter 2, Acts of the Regular Session of the 1938 General Assembly, and as it may be amended. If no protest is made by the governing authority of such school, hospital, church, or other place of worship to the Administrator of the Malt Beverage Unit before the application and proof of advertisement is filed with the Department of Revenue, the license may be issued forthwith.

By Mr. Fallis.

H. Res. 33. A JOINT RESOLUTION, directing the payment to William D. Overton of the sums directed to be paid pursuant to the Joint Resolution of the General Assembly, for the benefit of William D. Overton approved March 15, 1924, and appearing in the Acts of the General Assembly of 1924, as Chapter 297, on Page 614.

Said resolution is as follows, viz.:

WHEREAS, the Act of the General Assembly, 1940, known as the Budget Act, does not specifically mention the item herein referred to:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That said Budget Act shall in no wise be construed as a repudiation of the obligation of the Commonwealth of Kentucky provided in the Act approved March 15, 1924, being Chapter 297 of the Acts of 1924, nor shall said Budget Act of 1940 be construed as a repeal of said Act of March 15, 1924, providing the payment of Fifty Dollars ($50.00) per month to William D. Overton so long as he shall live.

§ 2. That the Auditor of Public Accounts is directed to draw his warrants upon the Treasurer payable to the said William D. Overton, in such amounts and at such times as they severally mature pursuant to said Act of March 15, 1924.

By Mr. Neikirk.

H. Res. 34. RESOLUTION authorizing Hershel Randolph, next friend and guardian of Edna Randolph, a minor, to sue the Commonwealth of Kentucky and the State Highway Commission, or either.

Said resolution is as follows, viz.:

WHEREAS, on October 4th, 1939, on Highway U. S. No. 27, between Somerset, Kentucky, and Burnside, Kentucky, in Pulaski County, Kentucky, the said Edna Randolph was

injured when she was struck by a motor vehicle belonging to the said State Highway Department and at the time being operated by one John Crawford, an employee of the State Highway Department of Kentucky, in a negligent and careless manner, which did cause and bring about the injuries to the said Edna Randolph, therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That Hershel Randolph as father, next friend and guardian of Edna Randolph, a minor, is hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or either, in the Pulaski Circuit Court, the County of the residence of the said Edna Randolph, for damages as the said Edna Randolph may have suffered, if any, by reason of any injury received by her through the carelessness or negligence of the agent or employees of the Kentucky State Highway Commission. Said suit shall be for any amount not exceeding the sum of $3,000.00, and in the event any judgment is recovered by the said Hershel Randolph as the guardian or next friend of Edna Randolph in said suit for the injuries suffered, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts, by warrant, drawn on the State Treasurer, and paid out of the general fund.

§ 2. Either party of said suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted, with the consent and approval of the Attorney General of Kentucky, in the same way as any other civil case. The recovery herein shall be limited to Three Thousand ($3,000.00) Dollars.

By Mr. Carter.

H. B. 236. An Act relating to revenue and taxation, and taxing the operation of certain coin-operated machines.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definition of slot-machine.* As used in this Act, unless the context requires otherwise, "slot-machine" means any machine, device or facility the operation of which depends upon the insertion into its mechanism of a coin, token or other thing of value, at which money or other thing of value may be won or lost, or which vends coins, merchandise, tokens or other thing of value and an element of chance is involved. This includes machines which may pay a reward for skillful operation, or on which a reward may be given based on a score or combinations, whether the machine pays the reward or indicates the reward to be paid. This does not include machines (commonly known as pinball machines) involving skill in the operation where no reward or premium is paid.

§ 2. *Tax must be paid.* On or before the last day of each month every owner of a slot-machine shall pay a tax of twenty dollars to the county court clerk for each slot-machine owned by him which he allows to be operated in the county during the following month. The owner may, if he desires, pay the tax for more than one month in advance at the rate of twenty dollars per month for each machine, but no taxes shall be refunded if the machine is not operated.

§ 3. *Issuance of receipt.* Upon payment of the tax the county court clerk shall issue a receipt, furnished by the Department of Revenue, showing that the tax has been paid, the period which the tax covers, and such other matter as the Department of Revenue deems necessary. The receipt shall be attached to and prominently displayed on the slot-machine on which the tax is paid. The tax receipt shall not be transferred from one machine to another, but may be transferred with the machine from one owner to another.

§ 4. *Records.* The clerk shall keep a record of the names and addresses of persons to whom tax receipts are

issued, the number issued to each prson, and such other information as the Department of Revenue requires, and shall forward a copy of the same to the Department of Revenue.

§ 5. *Clerk's fee; how tax distributed.* The clerk shall retain as his fee, from the tax collected by him, one dollar for each tax receipt he issues under this Act. He shall pay one-half of the remaining tax money into the county treasury, and the other half into the State Treasury to be credited to the General Expenditure Fund.

§ 6. *Rules for enforcement and collection.* The Commissioner of the Department of Revenue may make rules for the enforcement of this Act and for the collection of the tax imposed by this Act.

§ 7. *Evidence of payment of tax not admissible.* No evidence concerning any transaction arising out of the payment of the tax imposed by this Act and no record made by a public official or employe in the performance of duties in carrying out this Act shall be introduced in any court except in a proceeding to collect the tax or in a prosecution for violation of this Act.

§ 8. *Nature and construction of Act.* (1) The tax provided for by this Act is a tax on the operation of slot-machines, but this Act does not authorize any person to violate the gaming laws or Constitution of this state, and the payment of the tax shall be no defense to a prosecution for the violation of the gaming laws.

(2) The tax imposed by this Act on slot-machines, as defined in section 1 of this Act, is in lieu of all other taxes imposed by statute on the operation of such machines.

§ 9. *Penalties.* (1) Any person who knowingly allows a slot-machine on which the tax has not been paid to be operated on premises under his control, or any owner of a slot-machine who allows it to be operated without paying the tax as herein imposed, or any other person violating this Act shall be fined not less than one thousand nor more than two thousand dollars. The unlawful operation of each slot-

machine at any time during each separate month constitutes a separate offense.

(2) One-half of the fines collected for violation of this Act shall be paid to the officer making the arrest.

(3) The penalties imposed by this section are in addition to any penalties imposed for violation of the gaming laws.

By Mr. Hammons.

H. B. 237. AN ACT to repeal, amend and re-enact Section fifty-five and one half (55½) of Chapter two of the Acts of the General Assembly at its 1938 Regular Session relating to cash sales of alcoholic beverages or distilled spirits.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section fifty-five and one-half (55½) of Chapter Two of the Acts of the General Assembly at its 1938 regular session be and the same is hereby repealed, amended and re-enacted so when amended and re-enacted said section shall read as follows:

No brewer, wholesaler or distributor shall sell any malt beverage to any person in Kentucky for any consideration except cash paid at or before the time of delivery; provided, however, sales by wholesalers or distributors to licensees which are private clubs or voluntary association shall be exempt from the provisions of this act and provided further that this act shall in no wise apply to the sale of distilled spirits.

No brewer or distributor shall furnish or deliver any bottled beer without collecting a minimum container charge or deposit of sixty cents (60c) per case of twenty-four twelve ounce bottles or the equivalent thereof, in the same manner that the price of the beer is collected.

No right of action shall exist to collect any claim for credit extended contrary to the provisions of this clause. Nothing herein contained, however, shall prohibit a licensee from crediting to a purchaser the actual prices charged for packages or containers returned by the original purchaser as a credit on any sale or for refunding to any purchaser the amount paid by such purchaser for containers or as a deposit on containers when title is retained by the vendor, if such containers or packages have been returned to the brewer or distributor.

By Mr. King.

H. B. 238. An Act to repeal, amend and re-enact section 1283a-5, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 1283a-5, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement, be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted, said Statute shall read as follows:

It is hereby declared to be unlawful for any person or persons, corporation or corporations, to fill with milk, cream, buttermilk, flavored milk, cottage cheese, any bottle, jar, can, case, box, siphon, tin, or keg so marked or distinguished as aforesaid, with or by any name, mark, or device, of which a description shall have been filed and published, as provided above, or to deface, erase, obliterate, cover up or otherwise remove or conceal, any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in same without the written consent of, or unless the same shall have been purchased, by such person or corporation, exclusive of the contents thereof, from, the person or persons,

corporation or corporations, whose mark or device shall be or shall have been in or upon the bottle, jar, can, case, box, siphon, tin or keg so filled, trafficked in, used or handled as aforesaid. Any person or persons, or corporation or corporations offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished for the first offense by imprisonment, not less than ten days nor more than one year, or by a fine of fifty cents for each and every such bottle, jar, can, case, box, siphon, tin or keg so filled, sold, used, disposed of, given, taken, bought or trafficked in, or by both such fine and imprisonment, and for each subsequent offense by imprisonment, not less than twenty days nor more than one year, or by fine of not less than one dollor, nor more than five dollars, for each and every bottle, jar, can, case, box, siphon, tin or keg so filled, sold, used, disposed of, given, taken, bought or trafficked in, or by both such fine and imprisonment, in the discretion of the magistrate before whom the offense shall be tried.

It is also hereby declared to be unlawful for any person or persons, corporation or corporations, to take up or to acquire the possession of any plain or unmarked bottle, jar, can, box, case, siphon, tin or keg used by any other manufacturer, bottler or seller of the products hereinabove named, and any person or persons, corporation or corporations violating this provision shall be guilty of a misdemeanor and shall be punished as hereinabove provided. Provided however, that in the event that such person or persons, corporation or corporations shall inadvertently or through mistake, acquire and come into the possession of such unmarked bottles or containers in the conduct of his or her business, he or it may not dispose of such containers within thirty (30) days from the time such containers are aquired in such manner, during which time such persons having such bottles and containers in possession shall turn such unmarked bottles and containers over to any person or corporation dealing in the products herein named, upon the offer of such person or corporation

to turn over a like number of bottles or containers bearing the mark of such person or corporation in exchange for such unmarked bottles and/or containers, and neither party in such exchange of bottles or containers shall charge the other any expense or cost in such transfer

By Mr. Roll.

H. B. 239. AN ACT repealing and re-enacting Section 1697, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, by allowing in addition to the exemptions therein one automobile, necessary to owner's business, not exceeding $500.00 in value.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 1697, Carroll's Kentucky Statutes, Baldwin's 1836 Revised Edition, be repealed and re-enacted so that said section when re-enacted shall read as follows, to-wit:

§ 1697. The following property of persons with a family resident in this Commonwealth, shall be exempt from execution, attachment, distress, or fee-bill, namely: Two work beasts, or one work beast and one yoke of oxen; two plows and gear; one wagon and set of gear, or cart or dray; two axes, three hoes, one spade, one shovel; two cows and calves; beds, bedding and furniture sufficient for family use; one loom and spinning wheel and pair of cards; all of the spun yarn and manufactured cloth manufactured by the family necessary for family use; carpeting for all family rooms in use; one table; all books not to exceed seventy-five dollars in value; two saddles and their appendages; two bridles; six chairs, or so many as shall not exceed ten dollars ($10.00) in value; one cradle; poultry on hand not to exceed one hundred dollars ($100.00) in value; ten head of sheep, not to exceed twenty-five dollars ($25.00) in value; all wearing

apparel; sufficient provisions, including breadstuff and animal food to sustain the family for one year; provender suitable for live stock, if there be any such stock, not to exceed seventy dollars ($70.00) in value; if such provender be not on hand, such other property as shall not exceed such sum in value; all washing apparatus, not to exceed seventy-five dollars ($75.00) in value; one sewing machine, and all family portraits and pictures; one cook stove and appendages, and other cooking utensils not to exceed in value twenty-five dollars ($25.00); one automobile used in connection with and necessary to the owner's trade, business or occupation, not to exceed in value five hundred dollars ($500.00); ninety per centum (90%) of the salary, wages or income earned by labor, of every person earning a salary, wages, or income of seventy-five dollars ($75.00) or less per month, provided that the lien created by service of garnishment, execution, or attachment, shall only affect ten per centum (10%) of such salary, wages, or income, earned at the time of service of process, of the salary, wages, or income earned by labor, of every person earning a salary, wages or income in excess of seventy-five dollars ($75.00) per month, sixty-seven and one-half dollars ($67.50) per month. Provided, that the exemptions above as to salary, wages or income shall only apply in actions brought upon contracts entered into after the effective date of the Act of 1930 herein repealed and re-enacted, and no provision of this law be construed to make it retroactive in effect.

Ordered that said bills and resolutions be printed and referred.

Mr. Waterfield moved that the priviledge of the floor be extended to Messrs. R. T. Griffey and R. B. Jewell.

Said motion was agreed to.

Mr. Swope moved that the privilege of the floor be extended to Mr. and Mrs. John W. Williams of Lexington, Kentucky.

Said motion was agreed to.

Mr. Beard moved that the privilege of the floor be extended to Messrs. J. Robert Kirby and Frank M. Kirby of Smiths Grove, Kentucky.

Said motion was agreed to.

Mr. Hammons moved that the privilege of the floor be extended to Mr. Herman Handmaker of Louisville, Kentucky

Said motion was agreed to.

The Speaker announced that he had referred bills and resolutions previously introduced, as follows, viz.:

H. B. 180. To Committee on Agriculture No. 1

H. B. 181. To Committee on Kentucky Statutes No. 1

H. B. 182. To Committee on Circuit Courts

H. B. 183. To Committee on Banks & Banking

H. B. 184. To Committee on Criminal Law

H. B. 185. To Committee on Kentucky Statutes No. 1

H. B. 186. To Committee on Revenue & Taxation No.1

H. B. 187. To Committee on Revenue & Taxation No.1

H. B. 188. To Committee on Kentucky Statutes No. 1

H. B. 189. To Committee on Revenue & Taxation No. 1

H. B. 190. To Committee on Revenue & Taxation No.1

H. B. 191. To Committee on Codes of Practice

H. B. 192. To Committee on Kentucky Statutes No. 1-A

H. B. 193. To Committee on Insurance, Life and Casualty

H. B. 194. To Committee on Mines & Mining

H. B. 195. To Committee on Revenue & Taxation No. 1-A

H. B. 196. To Committee on Revenue & Taxation No. 1-A

H. B. 197. To Committee on Cities of the Second Class

H. B. 209. To Committee on Kentucky Statutes No. 1

H. B. 210. To Committee on Kentucky Statutes No. 1

H. B. 211. To Committee on Kentucky Statutes No. 1

H. B. 212. To Committee on Kentucky Statutes No. 1

H. Res. 31. To Committee on Appropriations No. 1

H. Res. 32. To Committee on Appropriations No. 1

H. Res. 28. To Committee on Appropriations No. 1

H. Res. 27. To Committee on Claims

H. Res. 26. To Committee on Claims

H. Res. 25. To Committee on Claims

H. Res. 29. To Committee on Claims

The Committee to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Ward of the Committee on Cities of the Second Class.

H. B. 109. An Act amending and re-enacting Sec.3235dd-33 of Carroll's Kentucky Statutes, being an Act relating to the appointment of the city managers in cities of the second class.

H. B. 87. An Act relating to the embezzlement, conversion, misappropriation and/or misapplication of the sinking fund in cities of the second class, etc.

H. B. 154. An Act to provide for the payment of costs in advance in quarterly courts in counties containing a city of the second class.

H. B. 41. An Act to authorize and enable cities of all classes to purchase, establish, acquire, maintain and operate municipal recreational projects, etc.

By Mr. Cox of the Committee on Education No. 1-A

H. B. 120. An Act to provide moral instruction for children in connection with the public schools.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Robinson moved that the Rules of this House be suspended and that the House proceed to the consideration of the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

H. B. 113. An Act in relation to the acquisition and use of property for a national Mississippi River Parkway

H. B. 76. An Act construing certain provisions in deeds and wills; defining powers of grantees, etc.

H. B. 147. An Act to restrict the sale of rubbing alcohol to medical purposes only and penalties thereto for violations of same.

H. B. 174. An Act to regulate the use of certain types of text books in the public schools of Kentucky and to provide penalties for the violations of this Act.

H. B. 6. An Act repealing Chapter 55 of the Kentucky Acts, Regular Session, 1938.

H. B. 69. An Act to regulate and license real estate brokers and salesmen and to create a state real estate board.

H. B. 72. An Act to regulate autioneers, assistants at auction sales and auction marketing commissions, to create a state auction marketing board, etc.

H. B. 138. An Act relating to financial statements of persons, firms and corporations handling public money, etc.

With a Committee Amendment thereto.

H. B. 141. An Act to amend sec. 2 of Chapter 21 of the Acts of 1938, first extraordinary session, compiled as section 4149 of Baldwin's Kentucky Statutes Service April 1939.

H. B. 137. An Act to amend Sec. 1682 of Carroll's Kentucky Statutes, 1936 Edition, relating to the sale of land under executions.

H. Res. 22. Resolution authorizing E. M. Addington of Island, McLean county, Kentucky to sue the Commonwealth.

H. Res. 21. Resolution authorizing Eula Morgan to file suit against the Commonwealth of Kentucky.

H. Res. 20. Resolution authorizing Mary E. Tincher to sue the Commonwealth of Kentucky.

H. Res. 19. Resolution authorizing Adrian Butler and Mrs. Adrian Butler, his wife, to sue the Commonwealth, etc.

H. Res. 18. Resolution authorizing J. E. Monroe of Greensburg, Kentucky to sue the Commonwealth.

H. Res. 17. Resolution authorizing Harve Kegley to sue the Commonwealth of Kentucky and/or the State Highways Department.

H. Res. 16. Resolution authorizing E. Pinkston of Fisherville, Jefferson county, Kentucky to sue the Commonwealth.

H. Res. 15. Resolution authorizing Pate Motor Company, Elizabethtown, Kentucky to file suit against the Commonwealth.

H. Res. 13. Resolution for the payment to the Hon. W. B. Lackey, Chief of Police of Richmond, Kentucky the sum of $73.20.

H. Res. 12. Resolution authorizing John Cox of Pomeroyton, Menifee county, Kentucky to sue the Commonwealth.

H. Res. 11. Resolution providing for the payment of doctors and hospital bills of Alford Lawson.

H. Res. 10. Resolution authorizing James V. Clark to sue the Commonwealth of Kentucky and the Highway Commission.

H. Res. 9. Resolution appropriating and authorizing the payment to Joe Holcomb of the city of Jenkins, Letcher county, Kentucky, the sum of $654.44.

H. Res. 8. Resolution authorizing Zill Whitney to file suit against the Commonwealth of Kentucky and the State Highway Commission.

H. Res. 7. Resolution authorizing Malcolm Godsey, Sr., to sue the Commonwealth.

H. Res. 6. Resolution authorizing Rosamond McCallister or her personal representative, to sue the Commonwealth.

Ordered that said bills and resolutions be read the second time.

The Constitutional provision as to the second reading of said bills and resolutions at length being dispensed with, said bills and resolutions were read the second time by their titles only.

Ordered that said bills and resolutions be placed in the Orders of the Day.

The Chief Clerk of the Senate appeared upon the Floor of the House and requested on the part of the Senate that a bill entitled:

S. B. 24. An Act to prohibit the manufacture, sale, exchange, offering for sale or exchange and possession with intent to sell or exchange, milk and cream to which has been added or which has been blended or compounded with fat or oil other than milk fat.

Which was reported to this House from the Senate on yesterday,

Be returned to the Senate.

Without objection, said bill was delivered into the hands of the Chief Clerk of the Senate.

A message was received from the Senate announcing that they have passed a bill which originated in this House entitled:

H. B. 93. An Act to repeal, amend and re-enact Sec. 3049, 3118, 3119, 3126, 3131, 3133, 3143, 3144, 3144a and 3166 of the Kentucky Statutes, Carroll's 1936 Edition all of which sections are a part of the charter of municipalities of the second class, etc.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 70. AN ACT to repeal, amend and re-enact Section 3, Chapter 67 of the Acts of March 19, 1908, known as Section 331e-3, Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 3, Chapter 67 of the Acts of March 19, 1908, known as Section 331e-3, Carroll's Kentucky Statutes, shall be repealed, amended and re-enacted so that said section when amended and re-enacted shall read as follows:

The county courts of the several counties of this state shall have authority to appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers during the pleasure of the court without any compensation whatsoever. In counties having a city of the second class the county court may appoint one probation officer, who shall be designated as chief probation officer, and who shall receive a salary of not exceeding twenty-four hundred dollars ($2,400.00) per annum, to be fixed by the county judge; one or more assistant probation officers, one of whom shall receive a salary of not exceeding eighteen hundred dollars ($1,800.00) per annum, and all other assistants so appointed shall receive a salary not exceeding one thousand dollars ($1,000.00) per annum, such salaries to be fixed by the judge of the county court. Such salaried probation officers shall be allowed their actual and necessary expenses incurred in the performance of thier duties; said salaries are expenses to be paid as provided herein. All such salaried probation officers shall have all the powers of sheriffs and county patrolmen in making arrests.

In counties having a city of the first class the county court may appoint one probation officer, who shall be designated as chief probation officer, and who shall receive a salary of not exceeding three thousand dollars ($3,000.00) per annum, to be fixed by the county judge; one or more assistant probation officers, one of whom shall receive a salary of not exceeding two thousand dollars ($2,000.00) per annum, and all other assistants so appointed shall receive a salary not exceeding fifteen hundred dollars ($1,500.00) per annum, such salaries to be fixed by the judge of the county court. Such salaried probation officers shall be allowed their actual and necessary expenses incurred in the performance of their duties; said salaries and expenses to be paid as provided herein. All such salaried probation officers shall have all the powers of sheriffs and county patrolmen in making arrests.

Mr. Moebus offered the following amendments to said bill, viz.:

1. Amend H. B. 70 on Page 1, section 1, line 1, by striking out the following after the word "that" and before the words "section 331e-3"

"Section 3, Chapter 67 of the Acts of March 19, 1908, known as"

2. Amend H. B. 70 on page 2 by adding the following at the end thereof:

"This Act expressly repeals Chapter 37, Acts of the 1938 General Assembly First Extra Session."

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being

engrossed, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Eugene Gough	H. O. Porter
J. Everett Bach	Van Y. Greene	Kleber F. Price
H. T. Baker	Ralph C. Hamilton	Hobart Rayburn
Robert E. Barry	C. L. Hammons	Thomas Rigdon
Wm. T. Beard	T. H. Hickey	Joe E. Robinson
Rell Bevins	Clyde S. Howard	Lyman Roll
Sterling B. Blake	Chester Huffines	Jack Savage
Douglas T. Bolling	W. H. Hunt	Carl Scheben
J. F. Bosworth	R. L. Jackson	Leon J. Shaikun
W. S. Brim	J. B. Jarboe, Jr.	Ray O. Shehan
C. J. Bronston	Chas. X. Jones	Faust Y. Simpson
Gus A. Brooks	John S. Juett	Bruce Sloan
Randolph A. Brown	William K. King	Otto Smither
Haynes Carman	W. A. Lamkin, Jr.	E. T. Sparks
Charles M. Carter	Robert E. Lee	G. C. Springate
James W. Chapman	Harvey D. Leonard	J. Claude Stacy
S. B. Chrisman	Edward Leslie	Ray J. Stengel
John Coulter	C. C. May	Henry Stewart
John H. Cox	T. B. McConnell	W. St. Clair Stuart
Pink G. Curd	Frank C. McElwain	T. M. Swope
W. Q. Daniel	E. Hayes McMakin	Otis C. Thomas
F. E. Daugherty	Norris McPherson	Erna E. Tyra
Stanley S. Dickson	Stanley C. Moebus	J. Wood Vance
D. E. Edwards	John B. Mollette	Walter R. Vansant
Harry W. Ennis	Davis Moore	Porter Wallace
R. R. Ernst	Joe T. Morgan	Harry F. Walters
Carlos Fallis	C. Homer Neikirk	Henry Ward
T. P. Fitzpatrick	Carl D. Perkins	H. L. Waterfield
Wayne Freeman	B. W. Porter	James H. Woods

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Mr. Moebus offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 70 by striking after the word "re-enact" and before the word "section 331e-3" the following words "Section 3, chapter 67 of the Acts of March 19, 1908 known as" and adding at the end of said title, a comma (,) after the word "Edition" and the following words "and to repeal Chapter 37, Acts of the 1938 General Assembly, First Extra Session."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Moebus moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 71. AN ACT authorizing the fiscal court of any county to institute condemnation proceedings to acquire lands for public roads, streets, alleys, ditches, and bridges; providing for the duties of the county attorney and the appointment of commissioners to assess damages; providing for the land owner to file exceptions and have a jury trial; providing for appeals to the Circuit Court and to the Court of Appeals; and providing for a transfer of the action to the Circuit Court where there are conflicting claimants to the land condemned.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Whenever the Fiscal Court of any County deems it to be in the best interests of such county to open, establish, construct, alter or repair any public road, street, alley, ditch or bridge of said county and said Fiscal Court shall require for such purpose land (or land in addition to that over which the county already has easments of way) and the Fiscal Court is unable to contract with the owner of the land required for its purchase or acquire the same by gift, then the Fiscal Court shall adopt a resolution setting forth the foregoing facts and ordering the condemnation of the required land, giving a general description thereof, together with the name or names of the owners thereof, where such names are known to said Fiscal Court. Such resolution shall direct the county attorney to proceed with the condemnation of such land, as hereinafter set forth.

§ 2. The county attorney shall file a petition in the county court in the name of the county praying said court to appoint commissioners to assess the damages the owner or owners of the land to be condemned may be entitled to receive, attaching to such petition a certified copy of the resolution of the Fiscal Court referred to in Section 1 hereof as an exhibit. Such resolution shall be prima facie evidence of the public use and necessity for the condemnation. Thereupon, the county court shall appoint three impartial residents of the county who are owners of land to serve as commissioners, who shall be sworn faithfully and impartially to discharge their duties under this Act.

§ 3. It shall be the duty of said commissioners to view the land to be condemned and to award the owner or owners the market value thereof, which shall include the value of any trees or shrubbery taken, the market replacement value of fencing similar to any taken, and the damages, if any, resulting to any adjacent remaining lands of the owner, considering the purpose for which the land is taken. Each of the foregoing items of value or damage shall be stated separately. In fixing the amount of damages to the remaining

land, the commissioners shall take into consideration any benefits which will accrue to such remaining adjacent land of the owner by reason of the construction of the proposed improvement and shall deduct the amount thereof from such incidental damages, if any. The commissioners shall prepare their report in writing, stating their award, as aforesaid, describing the land condemned, giving the names of the owners, whether they are non-residents, of unsound mind, or married women, and shall return such report to the office of the clerk of said court.

§ 4. When the commissioner's report has been filed, upon application of the county attorney, the clerk of the county court shall issue process against the owners of the land to be condemned to show cause why the report of the commissioners should not be confirmed.

§ 5. At the first regular term of the court after the owners shall have been summoned the length of time prescribed by the Civil Code of Practice before an answer is required, it shall be the duty of the court to examine the commissioner's report, and, if it appears to be in conformity with this Act, the court shall confirm said report as against owners not excepting thereto or to the extent that no exceptions have been filed thereto by either party.

§ 6. When either party files exceptions to the commissioner's report, the court shall fix a day for trial and on that day shall cause a jury to be impaneled to try the issues of fact made by the exceptions. Each juror shall be allowed one dollar per day for his services, to be taxed as costs. In assessing the damages, the jury shall be governed by the same rules as those prescribed for the commissioners in Section 3 of this Act. Upon request of either party, after all testimoney has been submitted to them, the jury may be sent by the court, in charge of the sheriff, to view the land. If sufficient cause be not shown for setting aside the verdict, the court shall render judgment in conformity thereto and shall make such orders as may be proper for the conveyance

of the title to the county upon payment of the damages assessed.

§ 7. Either party may appeal to the circuit court within thirty days from the date of the judgment, and the appeal shall be tried de novo in the same manner as in the county court. If said appeal is taken by the property owner or other party defendant, then the party so appealing shall file a supersedeas bond, as herein provided. If the county appeals, it shall not be necessary for said appellant to file such a supersedeas bond.

§ 8. Upon payment by the county to the owners of damages awarded by the commissioners' report, where such report is confirmed, or payment by the county court of damages awarded by the jury, together with all costs adjudged to the owner, the county shall be entitled to take possession of the land condemned and to use and control the same for the purpose for which it was condemned as fully as if title had passed to the county. All monies paid into court under the provisions of this Act shall be received by the clerk of the court and held subject to the order of the court. The clerk and the sureties on his official bond shall be responsible to the persons entitled to such monies.

§ 9. The appeal from the county court to the circuit court shall be taken by filing with the clerk of the circuit court a statement of the parties to the appeal and a certified copy of the judgement of the county court, and thereupon said clerk shall certify to the clerk of the county court that said appeal has been filed, and the clerk of the county court shall immediately transfer the original papers to the clerk of the circuit court. If the owner on his appeal shall fail in the circuit court to increase the amount of damages awarded in the county court, he shall pay all the costs of the appeal and repay to the county any sum he has received in excess of the amount awarded to him by the circuit court, plus interest at the rate of six percent on the difference between such awards from the date of the county court judgment,

whether or not he has received the same. If the damages are increased in the circuit court, the county shall pay all costs of the appeal, plus interest at the rate of six percent on the difference between the amount of the awards of the county court and the circuit court. The same rule as to payment of costs and interest shall apply if the county takes the appeal.

§ 10. In all cases where there are conflicting claimants to the land condemned, and where all such claimants are before the county court in the condemnation proceedings, the condemnor, after the damages have been assessed in the county court, may, by motion, have the case transferred to the circuit court of the county in which the condemnation proceedings are pending, for the purpose of having the rights of respective claimants in the land condemned determined, and upon filing the order of transfer in the office of the clerk of said circuit court, the condemnor may pay the damages assessed in the county court to the master commissioner of said circuit court, to be by him held for the benefit of, and paid over to such of said claimants as the circuit court, or the court of appeals, on appeal, may determine are entitled thereto. The condemnor, upon making such payment to said commissioner, may immediately take possession of the land condemned.

The circuit court clerk shall docket all such cases so transferred as other civil cases are docketed, and same shall thereafter proceed between said conflicting claimants to trial and judgment as if the action had originated between them in said court.

The transfer of any condemnation case as herein provided shall in no way affect the right of any party to the condemnation proceeding to appeal to the circuit court and thence to the court of appeals, as authorized by this section and as set forth in Section 9 of this Act.

§ 11. This Act shall create an additional and alternate method for the institution and prosecution of condemnation proceedings to acquire rights of way for county roads, streets,

alleys, ditches and bridges, and shall not repeal any act providing another method for acquiring same.

Whereas, it is necessary for various counties in the Commonwealth to obtain rights of way promptly in order to carry out projected road programs, an emergency is hereby declared to exist, and this Act shall take effect and be in full force and effect from and after its passage and approval by the Governor.

Mr. Walters offered the following amendment to said bill, viz.:

Amend H. B. 71 on page 4, section 9, line 3, by striking out the word "nad" and inserting in lieu thereof the word "and"

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	J. F. Bosworth	John Coulter
J. Everett Bach	W. S. Brim	John H. Cox
H. T. Baker	C. J. Bronston	Pink G. Curd
Robert E. Barry	Gus A. Brooks	W. Q. Daniel
Wm. T. Beard	Randolph A. Brown	F. E. Daugherty
Rell Bevins	Haynes Carman	Harry W. Ennis
Sterling B. Blake	Charles M. Carter	R. R. Ernst
Douglas T. Bolling	S. B. Chrisman	Carlos Fallis

T. P. Fitzpatrick	C. C. May	Ray O. Shehan
Cecil Florence	T. B. McConnell	Faust Y. Simpson
Wayne Freeman	Frank C. McElwain	Bruce Sloan
Eugene Gough	E. Hayes McMakin	Otto Smither
Van Y. Greene	Norris McPherson	G. C. Springate
Ralph C. Hamilton	G. Sam Milam	J. Claude Stacy
C. L. Hammons	Stanley C. Moebus	Ray J. Stengel
T. H. Hickey	Davis Moore	Henry Stewart
Clyde S. Howard	Joe T. Morgan	W. St. Clair Stuart
Chester Huffines	C. Homer Neikirk	T. M. Swope
W. H. Hunt	Carl D. Perkins	Erna E. Tyra
R. L. Jackson	B. W. Porter	J. Wood Vance
J. B. Jarboe, Jr.	H. O. Porter	Walter R. Vansant
Chas. X. Jones	Kleber F. Price	S. J. Wagner
John S. Juett	Hobart Rayburn	Porter Wallace
William K. King	Thomas Rigdon	Harry F. Walters
W. A. Lamkin, Jr.	Joe E. Robinson	Henry Ward
Robert E. Lee	Lyman Roll	H. L. Waterfield
Harvey D. Leonard	Jack Savage	James H. Woods
Edward Leslie	Carl Scheben	
W. Paul Lyon	Leon J. Shaikun	—85

Resolved that the title thereof be as aforesaid.

Mr. Walters moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had reconsidered the vote by which a bill which originated in this House, entitled:

H. B. 1. An Act appropriating funds for the operation of the government of the Commonwealth of Kentucky for the biennial period 1940-1941, etc,

Was passed by the Senate on January 12,

And in accordance with a request on the part of the House, had withdrawn the amendment heretofore adopted and proposed by the Senate,

And that they had passed said bill, with amendments thereto, as proposed and adopted by the Senate on to-day.

(For bill see House Journal of January 12)

Said amendments as proposed and adopted by the Senate are as follows, viz.:

1. Amend H. B. 1, page 21, 7th word of line 38 by striking the word "Borad" and inserting in lieu thereof the word "Board"

2. Amend H. B. 1, page 23, line 118 by striking the word "Beautical" and inserting in lieu thereof the word "Beautician"

3. Amend H. B. 1, page 24 by inserting after line 128 and before line 129 the words "Kentucky State Real Estate Commission."

4. Amend H. B. 1 page 26, lines 10 and 11 by striking the words "One-A" in line 10 and inserting in lieu thereof the words "Two-A" and striking the words "Two-A" in line 11 and inserting in lieu thereof the words "Three-A"

5. Amend H. B. 1, page 26, Section 3, line 8, by striking the word "Commissioners" and inserting in lieu thereof the word "Commission"

6. Amend H. B. 1, page 36, Section 19, line 20 by striking the figures "$21,00.00" and inserting in lieu thereof the figures "$21,000.00"

7. Amend H. B. 1, page 48, by adding after line 38 and before line 39 the words "Division of Professional Regulations."

8. Amend H. B. 1 page 48, by adding after line 46 and before line 47 the words "Kentucky State Real Estate Com-

mission'' ''State Board of Barber and Beautician Examiners.''

9. Amend H. B. 1 by moving lines 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 on page 45, and lines 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129 and 130 on page 46 and lines 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 on page 47 and inserting the same after line 49 and before Section 31 on page 48 of the printed bill.

10. Amend H. B. 1 page 35, line 17 by striking the figure ''49'' and inserting in lieu thereof the figure ''48'' after the word ''Chapter'' and before the word ''acts''

Mr. Milam moved that the House do now resolve itself into the Committee of the Whole House for the purpose of hearing Mr. Frank Peterson, Director of the Budget, explain the purpose of said amendments.

Said motion was agreed to.

Thereupon the Speaker vacated the Chair and designated Mr. James Chapman as Chairman of the Committee of the Whole House.

After a time, the Speaker having resumed the Chair, Mr. Chapman of the Committee of the Whole House reported that Mr. Peterson had appeared before the Committee of the Whole House and had explained the purpose of said amendments.

Said amendments were then each and severally concurred in.

Mr. Milam moved the Previous Question.

Thereupon the Speaker announced ''Shall the Main Question be now put?''

Which was decided in the affirmative.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Ralph C. Hamilton	Kleber F. Price
J. Everett Bach	C. L. Hammons	Hobart Rayburn
H. T. Baker	T. H. Hickey	Thomas Rigdon
Wm. T. Beard	Clyde S. Howard	Joe E. Robinson
Rell Bevins	John M. Hunnicutt	Lyman Roll
Sterling B. Blake	W. H. Hunt	Jack Savage
Douglas T. Bolling	R. L. Jackson	Carl Scheben
J. F. Bosworth	J. B. Jarboe, Jr.	Leon J. Shaikun
W. S. Brim	Chas. X. Jones	Ray O. Shehan
Randolph A. Brown	John S. Juett	Faust Y. Simpson
Haynes Carman	W. A. Lamkin, Jr.	Otto Smither
Charles M. Carter	Robert E. Lee	G. C. Springate
James W. Chapman	Harvey D. Leonard	J. Claude Stacy
S. B. Chrisman	Edward Leslie	Ray J. Stengel
John Coulter	W. Paul Lyon	Henry Stewart
John H. Cox	C. C. May	W. St. Clair Stuart
Pink G. Curd	T. B. McConnell	T. M. Swope
W. Q. Daniel	Frank C. McElwain	Erna E. Tyra
F. E. Daugherty	E. Hayes McMakin	J. Wood Vance
Stanley S. Dickson	Norris McPherson	Walter R. Vansant
D. E. Edwards	G. Sam Milam	S. J. Wagner
Harry W. Ennis	Stanley C. Moebus	Porter Wallace
R. R. Ernst	John B. Mollette	Harry F. Walters
Carlos Fallis	Davis Moore	Henry Ward
T. P. Fitzpatrick	Joe T. Morgan	H. L. Waterfield
Cecil Florence	C. Homer Neikirk	Otis White
Wayne Freeman	Carl D. Perkins	James H. Woods
Eugene Gough	B. W. Porter	Mr. Speaker
Van Y. Greene	H. O. Porter	—86

Mr. Milam moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Joe E. Robinson moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Easley moved that the Rules of this House be suspended for the purpose of permitting Committees to report.

Said motion was agreed to.

Thereupon Mr. Easley of the Committee on Veterans Legislation to which the same had been previously referred, reported a bill entitled:

H. B. 139. An Act to promote the public welfare by providing aid to dependent children.

With the expression of opinion that said bill ought to pass

Said bill was read at length the first time and ordered to be placed on the Calendar

By order of the Speaker, the privilege of the floor was extended to Mr. Louis Hume, County Attorney and Mr. Hubert Hume, Superintendent of Public Schools of Spencer County.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 50. AN ACT to amend section 965 of Carroll's Kentucky Statutes in so far as it relates to the time of holding the terms of Circuit Court in the Thirty-eighth Judicial District composed of the counties of Ohio, Muhlenberg, Butler and Edmonson.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 965 Carroll's Kentucky Statutes in so far as it relates to the time of holding the terms of Circuit Court in the Thirty-eighth Judicial District composed of the counties of Ohio, Muhlenberg, Butler and Edmonson, be and the same is hereby amended by striking from said section all that part which relates to the time of holding the terms of Circuit Courts in the Thirty-eighth Judicial District and inserting in lieu thereof the following, so that as amended it shall read as follows:

THIRTY-EIGHTH JUDICIAL DISTRICT

Ohio County, at Hartford; first Monday in March, twelve Juridical days; first Monday in June, twelve juridical days; first Monday in September, twelve juridical days; first Monday in December, twelve juridical days

Muhlenberg County, at Greenville; first Monday in January, twenty-four juridical days; first Monday in May,

twenty-four juridical days; first Monday in October, twenty-four juridical days.

Butler County, at Morgantown; first Monday in April, twelve juridical days; first Monday in July, twelve juridical days; third Monday in November, twelve juridical days

Edmonson County, at Brownsville; third Monday in March, twelve juridical days; third Monday in June, twelve juridical days; first Monday in November, twelve juridical days.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed.

§ 3. The change of time for holding terms of the Circuits in the Thirty-eighth Judicial District as hereinabove provided has become necessary because of a conflict in time of holding said courts and the District Court of the United States for the Western District of Kentucky which convenes at Bowling Green and wherein is pending a large volume of litigation affecting citizens of said Thirty-eighth Judicial District and wherein lawyers of said District are attorneys for many of said litigants with cases in said United District Court and because of such conflict in time of holding said courts an emergency is hereby declared and this Act shall take effect from and after its passage and its approval by the Governor.

Mr. White offered the following amendment to said bill, viz.:

Amend H. B. 50 by striking out after the enacting clause sections 1, 2 and 3 in their entirety and insert in lieu thereof the following:

"Section 1. That Section 965-38 of the Supplement of Carroll's Kentucky Statutes, 1939 Edition insofar as it relates to the time of holding the terms of Circuit Court in the Thirty Eighth Judicial District composed of the counties of Ohio, Muhlenberg, Butler and Edmonson, be and the same is hereby amended by striking from said section all that part which

relates to the time of holding the terms of Circuit Court in the Thirty-eighth Judicial District and inserting in lieu thereof the following, so that as amended it shall read as follows:

THIRTY-EIGHTH JUDICIAL DISTRICT

Ohio County, at Hartford; first Monday in April, twelve juridical days; first Monday in July twelve juridical days; first Monday in October, twelve juridical days, first Monday in December twelve juridical days.

Muhlenberg County, at Greenville; first Monday in January, twenty-four juridical days; first Monday in May, twenty-four juridical days; first Monday in September, twenty-four juridical days.

Butler County at Morgantown, first Monday in March, twelve juridical days, first Monday in June, twelve juridical days; third Monday in October, twelve juridical days.

Edmonson County, at Brownsville, third Monday in March, twelve juridical days; third Monday in June twelve juridical days; second Monday in November, twelve juridical days.

Section 2. Whereas, the change of time for holding terms of the Circuit Courts in the thirty-eighth Judicial District as hereinabove provided has become necessary because of a conflict in time of holding said courts and the District Court of the United States for the Western District of Kentucky which convenes at Bowling Green and wherein is pending a large volume of litigation affecting citizens of said Thirty-eighth Judicial District and wherein attorneys of said Thirty-eighth Judicial District are attorneys for many of said litigants with cases in said United States District Court and because of such conflict in time of holding said courts, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor."

Said amendment was agree to.

Mr. White moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	John Coulter	C. L. Hammons
J. Everett Bach	John H. Cox	T. H. Hickey
H. T. Baker	Pink G. Curd	Clyde S. Howard
Wm. T. Beard	W. Q. Daniel	Chester Huffines
Alvis S. Bennett	F. E. Daugherty	John M. Hunnicutt
Rell Bevins	Stanley S. Dickson	W. H. Hunt
Sterling B. Blake	Forest C. Easley	R. L. Jackson
Douglas T. Bolling	D. E. Edwards	J. B. Jarboe, Jr.
J. F. Bosworth	R. R. Ernst	Chas. X. Jones
W. S. Brim	Carlos Fallis	John S. Juett
C. J. Bronston	T. P. Fitzpatrick	W. A. Lamkin, Jr.
Gus A. Brooks	Cecil Florence	Robert E. Lee
Randolph A. Brown	Wayne Freeman	Harvey D. Leonard
Haynes Carman	Eugene Gough	Edward Leslie
Charles M. Carter	Van Y. Greene	W. Paul Lyon
S. B. Chrisman	Ralph C. Hamilton	C. C. May

Frank C. McElwain	Thomas Rigdon	Henry Stewart
E. Hayes McMakin	Joe E. Robinson	W. St. Clair Stuart
Norris McPherson	Lyman Roll	T. M. Swope
G. Sam Milam	Jack Savage	Otis C. Thomas
Stanley C. Moebus	Carl Scheben	Erna E. Tyra
John B. Mollette	Leon J. Shaikun	J. Wood Vance
Davis Moore	Ray O. Shehan	Walter R. Vansant
Joe T. Morgan	Faust Y. Simpson	Porter Wallace
C. Homer Neikirk	Bruce Sloan	Harry F. Walters
Carl D. Perkins	Otto Smither	Henry Ward
B. W. Porter	E. T. Sparks	Otis White
H. O. Porter	G. C. Springate	James H. Woods
Kleber F. Price	J. Claude Stacy	
Hobart Rayburn	Ray J. Stengel	—88

Mr. Bennett offered the following amendment to the title of said bill, viz.:

Amend title to H. B. 50 by striking out all the words in the printed bill and inserting in lieu thereof the following:

An Act to amend Section 965-38 of the Supplement to Carroll's Kentucky Statutes, 1939 Edition, insofar as it relates to the time of holding the terms of Circuit Court in the Thirty-eighth Judicial District comprising the counties of Ohio, Muhlenberg, Butler and Edmonson.

Whereas, the change of time for holding terms of the Circuit Courts in the Thirty-eighth Judicial District has become necessary because of a conflict in time of holding said courts and the District Court of the United States for the Western District of Kentucky which convenes at Bowling Green and wherein is pending a large volume of litigation affecting citizens of said Thirty-eighth Judicial District and wherein attorneys of said Thirty-eighth Judicial District are attorneys for many of said litigants with cases in said United State District Court and because of such conflict in time of holding said courts."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Bennett moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hammons moved that the Rules of this House be suspended and that a resolution entitled:

H. Res. 14. Resolution to provide for ten copies each of Carroll's 1936 Kentucky Statutes, and Baldwin's 1939 Kentucky Statute Service for the use of the General Assembly, and providing for the payment for same.

Be taken from the hands of the Committee on Appropriations No. 1 to which the same had been previously referred,

And advanced to a reading.

Said motion was agreed to.

Thereupon said resolution, having been taken from the hands of the Committee on Appropriations No. 1, was read at length the first time and ordered to be placed on the Calendar.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 62. An Act amending and re-enacting section 532 of Carroll's 1936 Edition.

Said motion was agreed to.

Thereupon the House took up for immediate consideration from the Orders of the Day, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section 532 of Carroll's Kentucky Statutes, 1936 Edition, be, and the same hereby is, amended and re-enacted so that when amended and re-enacted said section shall read as follows:

When in the opinion of the coroner, it shall be necessary to have a post mortem examination of a dead person during an inquest, he may employ a competent surgeon or physician for that purpose; and when he has reasonable grounds to believe that death has been produced by poison, may employ a competent chemist to analyze the stomach of the dead person. The fiscal court or county commission of the county in which the body is found shall pay to any physician, surgeon or chemist employed a reasonable compensation for their services.

Mr. Brim offered the following amendments to said bill, viz.:

Amend H. B. 62 on page 1, section 1, line 4 after the word "Coroner" and before the word "it" by inserting the following words "and the County Judge"

Said amendment was agreed to.

Mr. Wagner offered the following amendment to said bill, viz.:

Amend H. B. 62 on page 1, section 1, line 9 by striking out after the word "court" the following language: "or county Commission"

Said amendment was agreed to.

Mr. Wagner moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	John H. Cox	Clyde S. Howard
J. Everett Bach	Pink G. Curd	Chester Huffines
H. T. Baker	W. Q. Daniel	W. H. Hunt
Wm. T. Beard	F. E. Daugherty	R. L. Jackson
Alvis S. Bennett	Forest C. Easley	J. B. Jarboe, Jr.
Rell Bevins	D. E. Edwards	Chas. X. Jones
Sterling B. Blake	Harry W. Ennis	John S. Juett
Douglas T. Bolling	R. R. Ernst	W. A. Lamkin, Jr.
J. F. Bosworth	Carlos Fallis	Robert E. Lee
W. S. Brim	Cecil Florence	Harvey D. Leonard
Gus A. Brooks	Wayne Freeman	Edward Leslie
Randolph A. Brown	Eugene Gough	W. Paul Lyon
Charles M. Carter	Van Y. Greene	C. C. May
James W. Chapman	Ralph C. Hamilton	T. B. McConnell
S. B. Chrisman	C. L. Hammons	Frank C. McElwain
John Coulter	T. H. Hickey	E. Hayes McMakin

Norris McPherson	Joe E. Robinson	Henry Stewart
G. Sam Milam	Lyman Roll	W. St. Clair Stuart
Stanley C. Moebus	Jack Savage	T. M. Swope
John B. Mollette	Carl Scheben	Erna E. Tyra
Davis Moore	Leon J. Shaikun	J. Wood Vance
Joe T. Morgan	Ray O. Shehan	Walter R. Vansant
C. Homer Neikirk	Faust Y. Simpson	S. J. Wagner
Carl D. Perkins	Bruce Sloan	Porter Wallace
B. W. Porter	Otto Smither	Harry F. Walters
Kleber F. Price	E. T. Sparks	Henry Ward
Hobart Rayburn	G. C. Springate	Otis White
Thomas Rigdon	Ray J. Stengel	James H. Woods

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Mr. Wagner offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 62 by striking out the title in its entirety and adding in lieu thereof the following language:

"An Act amending and re-enacting section 532 of Carroll's Kentucky Statutes, 1936 Edition."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Wagner moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 152. AN ACT amending Section 1459 Carroll's Kentucky Statutes, Baldwin's revision of 1936, being a part

of the laws enacted by the General Assembly in 1918, Chapter 37 at page 106, Section 3 governing the publication, stating of the question upon the ballot and submission of constitutional amendments for vote of the people, and the duties of the Governor, Attorney General and Secretary of State pertaining thereto.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

"Whenever a constitutional amendment or other public measure is proposed to be voted upon by the people, the substance of such amendment or other public measure shall be clearly indicated upon the ballot and two spaces shall be left upon the right of the same, one for votes favoring the amendment, or public measure, to be designated by the word "Yes" and one for votes opposing the amendment or measure, to be designated by the word "No." The elector shall designate his vote by a cross mark thus (X), placed opposite the word "Yes", or the word "No." Whenever an amendment to the Constitution has been adopted by the General Assembly, the Governor, Attorney General and Secretary of State shall cause such proposed amendment to be published at least four times in two newspapers of general circulation, published in the State, and shall also cause to be published at the same time and in the same manner the fact that said constitutional amendment will be submitted to the voters for their acceptance or their rejection at the next general election at which members of the General Assembly are to be voted for. Such publication shall be made so that the last publication shall be at least (90) ninety days preceding the election at which said amendment is to be voted on, as provided in the Constitution, Section 256 and 257. It shall be the duty of the Attorney General to state the substance of the amendment to be voted upon in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, to

certify the said question as stated to the Secretary of State, for inclusion upon the ballot as hereinafter provided. It shall be the duty of the Secretary of State to certify, not less than 40 days before the next general election at which members of the General Assembly are to be chosen, the substance of the constitutional amendment to be voted on as stated, and certified by the Attorney General, to the county clerk of each county, and it shall be the duty of each county clerk to have the substance of such amendment as certified by the Seretary of State, indicated on the ballot, as provided in this section. The votes cast for and against such constitutional amendments shall be counted and canvassed and certified to the state canvassing board in the same manner as the votes cast for any officer elective by the votes of the whole state. If it shall be found that a majority of the votes cast for and against said amendment are in favor thereof, then said amendment shall become a part of the Constitution. The result of such votes shall be published by the Secretary of State in two daily newspapers of general circulation, published in this Commonwealth. The expenses of the publications herein provided for shall be paid as are the expenses of other publications which the Secretary of State is required to make in connection with elections.''

Mr. Scheben offered the following amendment to said bill, viz.:

Amend H. B. 152 by adding the following, after the enacting clause on page one of the printed bill: ''Section 1459 of Carroll's Kentucky Statutes, Baldwin's revision of 1936, being a part of the laws enacted by the General Assembly in 1918, Chapter 37 at page 106, Section 3, is amended so that it shall read as follows;''

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Harry W. Ennis	Frank C. McElwain
J. Everett Bach	R. R. Ernst	E. Hayes McMakin
H. T. Baker	Carlos Fallis	Norris McPherson
Robert E. Barry	T. P. Fitzpatrick	G. Sam Milam
Wm. T. Beard	Cecil Florence	Stanley C. Moebus
Alvis S. Bennett	Wayne Freeman	John B. Mollette
Rell Bevins	Eugene Gough	Davis Moore
Sterling B. Blake	Van Y. Greene	Joe T. Morgan
Douglas T. Bolling	Ralph C. Hamilton	C. Homer Neikirk
J. F. Bosworth	C. L. Hammons	Carl D. Perkins
W. S. Brim	T. H. Hickey	B. W. Porter
C. J. Bronston	Clyde S. Howard	Kleber F. Price
Gus A. Brooks	Chester Huffines	Hobart Rayburn
Randolph A. Brown	John M. Hunnicutt	Thomas Rigdon
Haynes Carman	W. H. Hunt	Joe E. Robinson
Charles M. Carter	R. L. Jackson	Lyman Roll
James W. Chapman	J. B. Jarboe, Jr.	Jack Savage
S. B. Chrisman	Chas. X. Jones	Carl Scheben
John Coulter	John S. Juett	Leon J. Shaikun
John H. Cox	W. A. Lamkin, Jr.	Ray O. Shehan
Pink G. Curd	Robert E. Lee	Faust Y. Simpson
W. Q. Daniel	Harvey D. Leonard	Bruce Sloan
F. E. Daugherty	Edward Leslie	Otto Smither
Stanley S. Dickson	W. Paul Lyon	E. T. Sparks
Forest C. Easley	C. C. May	G. C. Springate
D. E. Edwards	T. B. McConnell	J. Claude Stacy

Ray J. Stengel	J. Wood Vance	Harry F. Walters
Henry Stewart	Walter R. Vansant	Henry Ward
W. St. Clair Stuart	S. J. Wagner	Otis White
Erna E. Tyra	Porter Wallace	James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Scheben moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Joe E. Robinson moved that the House do now recess until the hour of seven-thirty o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of seven-thirty o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

At the hour of seven-thirty and in accordance with the provisions of House Resolution No. 30 heretofore adopted by the General Assembly, providing for a Joint Session of the Senate and House of Representatives to hear proponents and opponents of the Soil Conservation Act,

The Senate of Kentucky appeared and in order entered upon the floor of the House of Representatives, where The Honorable Rodes K. Myers, Lieutenant Governor and President of the Senate, took the Chair and presided. Dr. B. F. Shields, Speaker of the House of Representatives, having taken his seat on the right of the President of the Senate, the two houses were convened in Joint Session which was composed of a majority of the members elected to each house.

There being no objection, the call of the roll of the Senate and House of Representatives in Joint Session, was dispensed with.

The Honorable Joe E. Robinson of the county of Garrard and The Honorable J. Wood Vance of the county of Barren discussed the merits of the bill and Attorney General Hubert Meredith, Ben F. Niles, President of the Farm Bureau and others discussed the demerits of the bill.

Senator W. E. Rogers moved that the Joint Session do now dissolve.

Said motion was agreed to.

The Speaker having resumed the Chair,

Mr. Joe E. Robinson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, JANUARY 26, 1940.

The House was called to order by Dr. B. F. Shields, Speaker.

The House was opened with prayer by the Reverend C. W. Grant of the Methodist Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.	Wayne Freeman	H. O. Porter
J. Everett Bach	Eugene Gough	Kleber F. Price
H. T. Baker	Van Y. Greene	Hobart Rayburn
Robert E. Barry	Ralph C. Hamilton	Thomas Rigdon
Wm. T. Beard	C. L. Hammons	Joe E. Robinson
Alvis S. Bennett	T. H. Hickey	Lyman Roll
Rell Bevins	Clyde S. Howard	Jack Savage
Sterling B. Blake	Chester Huffines	Carl Scheben
Douglas T. Bolling	John M. Hunnicutt	Leon J. Shaikun
J. F. Bosworth	W. H. Hunt	Ray O. Shehan
W. S. Brim	R. L. Jackson	Faust Y. Simpson
C. J. Bronston	J. B. Jarboe, Jr.	Bruce Sloan
Gus A. Brooks	Chas. X. Jones	Otto Smither
Randolph A. Brown	John S. Juett	E. T. Sparks
Haynes Carman	William K. King	G. C. Springate
Charles M. Carter	W. A. Lamkin, Jr.	J. Claude Stacy
James W. Chapman	Robert E. Lee	Ray J. Stengel
S. B. Chrisman	Harvey D. Leonard	Henry Stewart
John Coulter	Edward Leslie	W. St. Clair Stuart
John H. Cox	W. Paul Lyon	T. M. Swope
Pink G. Curd	C. C. May	Erna E. Tyra
W. Q. Daniel	T. B. McConnell	J. Wood Vance
F. E. Daugherty	E. Hayes McMakin	Walter R. Vansant
Stanley S. Dickson	Norris McPherson	S. J. Wagner
Forest C. Easley	Stanley C. Moebus	Porter Wallace
D. E. Edwards	John B. Mollette	Harry F. Walters
Harry W. Ennis	Davis Moore	Henry Ward
R. R. Ernst	Joe T. Morgan	H. L. Waterfield
Carlos Fallis	C. Homer Neikirk	Otis White
T. P. Fitzpatrick	Carl D. Perkins	James H. Woods
Cecil Florence	B. W. Porter	—92

Mr. Bach moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Lamkin moved that the privilege of the floor be extended to Mr. Curtis Brown of Meade county.

Said motion was agreed to.

Mr. Rayburn moved that the privilege of the floor be extended to Mr. Charles Wylie, former member of this House from Jessamine county.

Said motion was agreed to.

The following bills and resolutions were introduced, viz.:

By Mr. Anderson.

H. B. 240. AN ACT to repeal, amend and re-enact Section 2005-1, 2005-2, and 2005-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Paragraphs 1, 2 and 3 of the Acts of 1912, and providing for increase of compensation of members of the General Assembly.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

An Act to repeal, amend and re-enact Section 2005-1, 2005-2, and 2005-3, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Paragraphs 1, 2, and 3 of the Acts of 1912, and providing for increase of compensation of members of the General Assembly; so that when repealed, amended and re-enacted shall read as follows:—

1. The members of the General Assembly of the Upper House (Senate) shall severally receive from the State Treasurer the amount of ONE THOUSAND DOLLARS ($1,000.00) per year as compensation for their services during the term for which they are elected, payable as follows:—

Two Hundred Fifty Dollars ($250.00) on January 15 of even-numbered years; Two Hundred Fifty Dollars ($250.00) on February 15 of even-numbered years; and Five Hundred

Dollars ($500.00) at the end of the regular session. For odd-numbered years their compensation shall be paid monthly.

They shall receive fifteen cents (15c) per mile for necessary traveling expenses in going to and returning from the sessions of the General Assembly.

2. The members of the General Assembly of the Lower House (House of Representatives) shall receive the same compensation and shall be paid in the same manner as provided in paragraph 1 above for their services during their attendance on the sessions of the General Assembly.

3. The President of the Senate and the Speaker of the House of Representatives shall receive the same compensation as members of their respective bodies, and shall in addition thereto receive Five Dollars ($5.00) per day while attending upon the sessions of their respective bodies.

4. The compensation herein provided for shall be in full for all services which are required to be performed by Senators and Representatives, whether rendered during the regular session or subsequent to the adjournment thereof; provided, that nothing in this Act shall affect the compensation of Senators and Representatives by stationery.

By Mr. Sparks.

H. B. 241. An Act providing for the establishment and maintenance of Junior Colleges in independent school districts embracing cities of the fourth class.

Said bill as as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Boards of Education of the independent districts in cities of the fourth class, whether the boundary lines of the district are coterminous with that of the city or not, are hereby authorized to establish, or to acquire by purchase, by gift, lease or by lawful conveyance, municipal col-

leges for the purpose of promoting public education as defined in this Act, and for the support, and maintenance thereof the Board of Education of such independent districts may levy an ad valorem tax not to exceed 50c on each 100 dollars worth of taxable property within said district, such levy to be made at the same time that the levy is made for general school purposes. This tax shall be levied annually and collected for said district as other school funds and turned over to the treasurer of said independent district. Before such Junior Colleges shall be established the questions shall be submitted to the qualified voters of the district at any general election and shall be deemed authorized when two-thirds of the voters in said election voting upon said proposition are in favor thereof.

§ 2. *Municipal Junior College Defined.* A Municipal Junior College within the meaning of this act is a college established or supported in whole or in part by the funds raised by municipal taxation and controlled and administered by the Board of Education of such municipality as a part of the public school system affording instruction in arts, sciences, professions, and vocations and conferring such certificates of attainment as may be authorized by other like or similar institutions of learning above high school grade or standing.

§ 3. *Tuition Fee.* The Board of Education of any independent district of a fourth class city that may establish or acquire a municipal Junior College under the terms of this act may for the purpose of supplementing the tax provided in this act charge each pupil attending the municipal Junior College a tuition fee not to exceed $100.00 per annum. The tuition fee shall be collected by the treasurer of the Board of Education and shall be placed to the credit of the Board of Education College Fund and shall be used for maintaining and operating a Municipal Junior College.

§ 4. *College Entitled to Support, when.* A municipal Junior College shall be entitled to support under this act only when its principal organization is the maintaining of courses

of instruction in advance of the instruction maintained in high schools under the control of the Board of Education.

§ 5. *Site of Building.* The Board of Education of any independent district of a fourth class city may set apart or appropriate any site or schools building or part of a school building and grounds not especially needed for general school purposes for the use of said municipal Junior College or they may acquire such property by the use of the funds accruing to the Board of Education through the tax levy for the college fund.

§ 6. *Annual Financial Report.* An annual report and an audit of the receipts and disbursements of the Junior College Fund shall be made by the Board of Education of the independent district annually as of July 1st.

§ 7. *Effect of Act.* Nothing in this act shall be construed to effect independent districts that have established and are now operating such college at the time by the Board of Education.

By Mr. Carter.

H. B. 242. An Act to amend section 1840f-1 of Carroll's Kentucky Statutes, 1936 edition, relating to the bounty for crows.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. Section 1840f-1 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The fiscal court of each county shall offer and pay a bounty of fifteen cents for each crow killed in the county. No bounty shall be awarded until the claimant has presented to the county court clerk the head of each crow killed, and a signed statement that he killed each crow in the county where the bounty is claimed and did not raise or purchase it. Any

other condition imposed by the fiscal court upon the award of the bounty shall be void. The clerk, upon awarding each bounty, shall draw his warrant upon the county treasurer for the amount awarded. The clerk shall have the head of each crow destroyed within twenty-four hours after it was presented to him. Any county clerk who knowingly draws a warrant for a bounty payment to which the claimant is not entitled, and any claimant who received a bounty payment to which he is not entitled, shall be fined not less than one dollar nor more than five dollars for each such bounty payment.

By Mr. Sloan.

H. B. 243. AN ACT repealing sections Eighty Five (85), Eighty Six (86), Eighty Seven (87) and Eighty Eight (88) of Chapter Eighty (80) of the acts of One Thousand Nine Hundred Fourteen (1914) now being sections Four Thousand Three Hundred Fifty Six O (4356o) Four Thousand Three Hundred Fifty Six p (4356p), Four Thousand Three Hundred Three Hundred Fifty Six r (4356 r) of Carroll's Kentucky Statutes, requiring male person to work the road and providing for appointment of overseers to work road and their duties.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections Eighty Five (85), Eighty Six (86), Eighty Seven (87) and Eighty Eight (88) of Chapter (80) of the acts of One Thousand Nine Hundred Fourteen (1914) now being sections Four Thousand Three Hundred Fifty Six o (4356o) Four Thousand Three Hundred Fifty Six p (4356p), Four Thousand Three Hundred Fifty Six q (4356Q) and Four Thousand Three Hundred Fifty Six r (4356r) of Carroll's Kentucky Statutes, requiring male persons to work the road and providing for appointment of overseers to work road and their duties, be and the same is hereby repealed.

By Mr. Hunt.

H. B. 244. AN ACT to repeal, amend, and re-enact Section 576a-1 and Section 576a-2 of Carroll's Kentucky Statutes relating to the payment of wages by corporations and fixing a penalty.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 576a-1 and Section 576a-2 of Carroll's Kentucky Statutes, 1936 Revision, being a portion of Chapter 21 of the Acts of 1916, are hereby repealed, amended, and re-enacted so that when re-enacted said sections shall read as follows:

Section 576a-2. That every corporation for pecuniary profit engaged in any enterprise or business within the state of Kentucky shall, as often as weekly pay to every employee engaged in its business all wages or salary earned by such employee to a day not more than eighteen days prior to the date of such payment. And any employee who is absent at the time fixed for payment, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time upon six days' demand, and any employee leaving his or her employment or is discharged therefrom shall be paid in full following his or her dismissal or voluntary leaving his or her employment at any time upon three days' demand. No corporation coming within the meaning of this act shall, by special contract with its employees or by any other means, secure exemption from the provisions of this act. And each and every employee of a corporation coming within the meaning of this act shall have his or her right of action against any such corporation for the full amount of his or her wages due on each regular pay day as herein provided in any court of competent jurisdiction in this state.

Section 576a-2. Any corporation coming within the meaning of this act violating the provisions of 576a-1 of this act shall be deemed guilty of a misdemeanor and fined in a

sum not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) for each separate offense and each and every failure or refusal to pay each employee the amount of wages due him or her at the time, or under the conditions required in 576a-1 of this act shall constitute a separate offense.

By Mr. Joe E. Robinson.

H. B. 245. AN ACT to regulate operations in this state of Rural Electric Co-operative Corporations organized under the laws of contiguous states.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any rural electric co-operative corporation organized under a law of any state contiguous to this state, which law is substantially similar to the law under which such corporations may be organized in this state, may extend its operations into this state for a distance not exceeding three miles from the boundary between that state and this state, and such extension shall not be considered doing business in this state within the meaning of the statutes regulating or taxing foreign corporations doing business in this state. Such corporation shall be entitled to the same exemptions granted to, and shall pay the same tax required of, domestic corporations under section 27 of Chapter 6 of the Acts of 1936, fourth extraordinary session.

§ 2. The operations of such corporation within this state shall be subject to the supervision of the Public Service Commission of Kentucky, and the Commission may take the necessary action to require the corporation to furnish adequate service at reasonable rates. If the corporation fails to comply with the regulations and requirements of the Commission it shall forfeit the privilege granted by this Act.

§ 3. The privilege granted by this Act shall be effective for a period of five years from the effective date of this Act, at which date it shall expire, unless the contiguous state grants a similar privilege to rural electric co-operative corporations incorporated in this state, in which case it shall continue so long as the contiguous state continues to grant the same privilege.

By Mr. Lyon.

H. B. 246. An Act relating to dogs and the protection of live stock and poultry from injury by dogs.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Sections 68b-1 to 68b-38 of Carroll's Kentucky Statutes, 1936 edition, are repealed.

§ 2. Any person having a claim for loss or damage to live stock or poultry that would have been payable out of the county live stock fund under the provisions of sections 68b-1 to 68b-38 of Carroll's Kentucky Statutes, 1936 edition, may enforce his claim in the manner provided in said sections, to the extent that there are sums remaining in the county live stock fund for that purpose at the time this Act takes effect.

By Mr. H. O. Porter.

H. B. 247. AN ACT providing a Teacher Retirement System for the State of Kentucky; providing for retirement allowances for teachers, as defined in the Act, in the public elementary and secondary schools of the State, in the state supported colleges, and in the State Department of Education; providing for disability allowances for disabled teachers in such schools and institutions; providing that the funds for the payment of retirement annuities to teachers and for dis-

ability benefits shall be raised by contributions from the teachers and by contributions from the State of Kentucky from its general funds; providing for the amendment of Section 2, by amending Subsections 4, 7, 8 and 9, and adding Subsection 20, and providing for adding Section 7A, and amending Sections 22, 25, 28, 33, 36—Subsection a, 38, 42, 42-A, 43 and 44, of Chapter 1 of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, the same being Sections 4506b-2—Subsections 4, 7, 8 and 9, 4506b-21, 4506b-24, 4506b-27, 4506b-32, 4506b-35—Subsection a, 4506b-37, 4506b-41, 4506b-42, 4506b-43 and 4506b-44, respectively, Carroll's Kentucky Statutes, Baldwin's Edition, 1939 Supplement; and providing for the administration and management of the retirement system and all funds created for its maintenance and support, by a Board of Trustees to be selected under the supervision of the Superintendent of Public Instruction, by a vote of the members of the system.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 1 of the Acts of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky, be amended by adding Section 7A and Subsection 20 to Section 2, and amending Section 2—Subsections 4, 7, 8 and 9, and Sections 22, 25, 28, 33, 36—Subsection a, 38, 42, 42A, 43 and 44, the same being Sections 4506b-2—Subsections 4, 7, 8 and 9, 4506b-21, 4506b-24, 4506b-27, 4506b-32, 4506b-35—Subsection a, 4506b-37, 4506b-41, 4506b-42, 4506b-43, and 4506b-44, respectively, Carroll's Kentucky Statutes, Baldwin's Edition, 1939 Supplement, so that when so amended and reenacted, said sections shall read as follows:

Section 4506b-2, Subsection 4. "Teacher" shall mean (a) any full-time regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, attendance officer, or other full-time member of the teaching

or professional staff engaged in the service of the public elementary and secondary schools for whom certification is required as a condition of employment (b) all members of the instructional and administrative staffs of Eastern Kentucky State Teachers College at Richmond, Kentucky; Western Kentucky State Teachers College at Bowling Green, Kentucky; Murray State Teachers College at Murray, Kentucky; Morehead State Teachers College at Morehead, Kentucky; Kentucky School for the Deaf at Danville, Kentucky; Kentucky School for the Blind at Louisville, Kentucky; Kentucky State College for Negroes at Frankfort, Kentucky; Western Kentucky Vocational Training School at Paducah, Kentucky; and Mayo State Vocational School at Paintsville, Kentucky, who are regularly employed by a board of education, a board of regents, or a board of trustees for a full term for which school is maintained, (c) the Superintendent of Public Instruction of the Commonwealth of Kentucky and the division heads and other professional staff members of the State Department of Education, appointed in accordance with Section 4384-7, Kentucky Statutes, and (d) any member of a local retirement system who becomes a member of the state retirement system according to the provisions of Section 49 of this Act.

Section 4506b-2, Subsection 7. "Prior Service" shall mean the number of years during which the member was a "teacher" in Kentucky prior to July 1, 1941, as allowed in his prior service certificate, except that not more than thirty years prior service shall be allowed or credited to any teacher.

Section 4506b-2, Subsection 8. "Subsequent Service" shall mean the number of years, after July 1, 1941, during which the teacher is a member of the state retirement system.

Section 4506b-2, Subsection 9. "Prior Service Certificate" shall mean the certificate issued by the Board of Trustees of the state teachers retirement system designating the amount of accredited service, not to exceed thirty years, of a member prior to July 1, 1941.

Subsection 20. "Public Schools" as used in this Act shall refer to the schools and other institutions covered in subsection 4 of this section.

Section 7A. The election of members of the Board of Trustees in 1940 shall be held on or before June 1, and shall be conducted by ballot under the supervision of the Superintendent of Public Instruction. At this election, each teacher in the schools embraced by this Act shall be deemed to be a member of the retirement system and shall have the right to vote. Nomination for membership on the Board of Trustees shall be made by a nominating committee consisting of one delegate from the membership of each of the districts of the Kentucky Education Association, the President of the Kentucky Negro Education Association and one member appointed by him from the membership of the Kentucky Negro Education Association. The President of the Kentucky Education Association shall preside over the meeting of the nominating committee. Two nominations shall be made by the nominating committee for the vacancies which will exist as the result of the election held by terms of Section 7 of Chapter 1 of the First Special Session of the 1938 General Assembly of the Commonwealth of Kentucky. Subsequent elections of members of the Board of Trustees shall be held by ballot under the supervision of the Superintendent of Public Instruction and nominations for the Board of Trustees shall be made as provided herein. All expenses for the election to be held in 1940, as well as for all subsequent elections, shall be paid by the Board of Trustees of the Teacher Retirement System out of its general expense fund.

Section 4506b-21 Board to be trustee of the funds; investment; collection of interest. The board of trustees shall be the trustee of the several funds credited by this Act, and such board shall have full power and responsibility for the investment and disbursement of the funds of the system according to the provisions of this Act. No investment shall be made of such funds except in obligations of or guaranteed

by the United States Government, or obligations of any State, or of any city in Kentucky of the first, second, or third classes, or in first mortgages on real estate in Kentucky, not to exceed 50 per cent of the appraised value thereof, or in the form of deposits in banks or trust companies of the State of Kentucky organized under the laws of the State of Kentucky or of the United States, when such deposits are interest bearing at a rate not to be lower than three per cent per annum, and when such deposits are secured by the deposit of security approved by the State Treasurer and the board of trustees. No investment or disbursement of such funds shall be made unless authorized by a resolution adopted by the board of trustees.

Section 4506b-24. Cash on Deposit. For the purpose of meeting disbursements for allowance and other payments there may be left available cash on deposit in such sums as the board of trustees may direct in one or more banks or trust companies of the State of Kentucky organized under the laws of the State of Kentucky or the United States, provided that the total amount of cash on hand and unsecured deposits at any time shall not exceed the receipts of the retirement system from all sources during the previous twelve months.

Section 4506b-27. Membership a condition of employment; exemptions. The membership of the retirement system shall consist of the following: (a) all present teachers except those who have filed with the chief school officers of the district or institution in which they are employed, statements declining membership, as provided in Section 29 of this Act, or teachers who are excluded by the provisions of this Act, and (b) all new teachers as defined in this Act.

Section 4506b-32. Prior service for new entrants employed prior to 1940-41. A teacher who is not employed for the 1940-41 school year but who has been employed as a teacher in Kentucky prior to the 1940-41 school year, shall when again re-employed, be considered as a new teacher, and membership in the retirement system shall be compulsory for him, provided that he may receive credit for prior service

when he produces evidence that he was regularly employed as a teacher in Kentucky for full terms in three (3) of the six (6) school years preceding July 1, 1940.

Section 4506b-35, Subsection (a). The expense fund shall consist of such funds as shall be set aside from year to year by the board of trustees to defray the expenses of the administration of this Act. During any fiscal year, with the exception of the fiscal year 1940-41, an amount which shall not be greater than four (4) per centum of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of this Act. The board of trustees may elect coverage for its employees under the Workmen's Compensation Act of this State, and under the Unemployment Compensation Act of this State, and any contributions required under such Acts shall be considered proper expense payable from the expense fund.

Section 4506b-37. The State's contribution. Beginning with July 1, 1942, the State shall make annually two contributions into the fund, (a) a permanent amount equal to that contributed by all members, and (b) a temporary amount equal to two per centum of the salaries of all present teachers, in order to cover the obligation assumed by the State for prior service credit. With respect to the fiscal years from July 1, 1940, to June 30, 1942, the State shall make a contribution equal to the contribution of the teachers with respect to such period, but not to exceed $500,000 for each year.

Section 4506b-41. Conditions of retirement. Any member who has attained the age of sixty (60) years and who has completed twenty (20) years of service as a teacher in Kentucky, five (5) years of which must have immediately preceded retirement, may retire upon written application (filed after the effective date of this Act) to the board of trustees of the retirement system. The filing of such application shall, unless it is withdrawn, retire such member at the end of the fiscal year then current. All members shall be automatically retired at the end of the fiscal year during which they attain

the age of seventy (70) years. Members who are seventy (70) years of age or older on July 1, 1942, shall be automatically retired on that date.

Section 4506b-42. Continuation of contributions and retention of benefit rights in the event of early withdrawal. Any person who has been a teacher in Kentucky for thirty (30) years or more and who withdraws from teaching after the effective date of this Act and before reaching the age of sixty (60 years shall have the option of refusing to withdraw his deposits and of continuing to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty (60) years the same amount which he was required to contribute during his last full year as a teacher. If he elects to refuse to withdraw his deposits and to continue such payments as specified in this paragraph he shall, at the end of the fiscal year in which he attained the age of sixty (60) years and thereafter, be entitled to receive the same retirement allowance as is provided for a teacher who retires at the age of sixty (60) years.

Section 4506b-43. Retirement allowances. The retirement allowance of a member whose age of retirement is sixty (60) and less than sixty-five (65) years shall be one-half of one per cent of his annual salary for each year of prior service, plus three-quarters of one per cent of his annual salary for each year of subsequent service. The retirement allowance of a member whose age of retirement is sixty-five (65) and less than seventy (70) years shall be three-quarters of one per cent of his annual salary for each year of prior service, plus one and one-eighth per cent of his annual salary for each year of subsequent service. The retirement allowance of each member whose age of retirement is seventy (70) years of age or over shall be one per cent of his annual salary for each year of prior service, plue one and one-half per cent of his annual salary for each year of subsequent service. No retirement allowance shall be greater than one-half of the member's annual salary, nor greater than $1,000. No retire-

ment allowance shall be less than $100, and any allowance which is computed at less than $100 shall be $100. No retirement allowance shall be granted with respect to any period beginning before July 1, 1942.

Section 4506b-44. Disability allowance. Any member, after he has attained the age of fifty (50), but before he has attained the age of sixty (60) years, who has completed twenty (20) years of accredited service in the public schools of the State of Kentucky, five (5) of which immediately preceded retirement, may retire for disability and shall be granted a disability allowance to be paid from the funds of the retirement system. The disability allowance of each such member shall be one-half of 1 per cent of his annual salary for each year of prior service, plus three-quarters of 1 per cent of his annual salary for each year of subsequent service. No disability allowance shall be greater than one-half of the member's annual salary, nor greater than $1,000. No disability allowance shall be, or shall be reduced to, less than $100, and any allowance which is computed to be less than $100 shall be $100. No disability allowance shall be granted with respect to any period beginning before July 1, 1942.

By Mr. Edwards.

H. Res. 35. Resolution authorizing L. G. Leachman to sue the State of Kentucky and State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, on October 31st, 1939, Dutch Boyd, of McLean County, Kentucky, an employee of the State Highway Commission of Kentucky, was operating a truck belonging to or in the service of said Highway Commission of Kentucky, in McLean County, Kentucky; and

WHEREAS, it is claimed by the said L. G. Leachman that the said Boyd did, on said date, so operate said truck without any warning, and in such careless and reckless manner as to cause said truck to run into and hit and strike a mule

and wagon belonging to the said L. G. Leachman, and which at the time was being driven by Chester M. Stratton and who at said time was on a public highway leading from Beech Grove, Ky., to Calhoun, Ky., and going in an easternly direction, and on the right side of said highway going in said direction, thereby killing said mule, which was of the value of $200.00, at said time, and but for the negligent and careless operation of said truck by said Boyd said accident would not have happened, and that by reason thereof he, the said L. G. Leachman, has been damaged in the sum of $200.00, and if such damages were sustained, as aforesaid, the same should be paid by the Commonwealth of Kentucky: Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That L. G. Leachman be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and State Highway Commission of Kentucky, in McLean Circuit Court, of McLean County, Kentucky, or either of them in said Court for such damages he has suffered by reason of such accident and collision not to exceed the sum of $200.00 and in the event a judgment is recovered or a settlement made same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the General Fund.

By Mr. Barry.

H. Res. 36. A Resolution authorizing Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain, 17 years old, and Elizabeth Chamberlain, 14 years old, by their statutory guardian, to sue the Commonwealth of Kentucky, and the State Highway Commission, and the Department of Highways, or either.

Said resolution is as follows, viz.:

WHEREAS, on the 31st day of July, 1939, an automobile was being operated by Rodney Chamberlain, on Kentucky Highway 61 between Elizabethtown and Hodgenville, and in crossing a culvert near the I. C. railroad crossing about 8 miles south of Elizabethtown, said automobile of the Chamberlains was demolished, thereby inflicting permanent injuries on Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain and Elizabeth Chamberlain, and

WHEREAS, during the year of 1939 the State Highway Commission, as agent of the Commonwealth of Kentucky, constructed or caused to be constructed, a road culvert near the I. C. railroad crossing about 8 miles south of Elizabethtown on Kentucky Highway 61, and

WHEREAS, at the time of said accident, said culvert was being maintained, operated, and kept in repair by the Commonwealth of Kentucky, and by its agency, the State Highway Commission, and it is alleged that the Commonwealth of Kentucky, and the State Highway Commission, its agents, servants and employees had negligently failed to repair the sunken culvert, or had negligently failed to have the proper watchman, or signs showing condition of said culvert, or to give the traveling public, including Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain or Elizabeth Chamberlain, any notice, or warning by signs or otherwise, of the dangerous condition of the said culvert, or the approach thereto, and

WHEREAS, it is alleged that the Commonwealth of Kentucky and the State Highway Commission had, or by the exercise of ordinary care, could have had notice of the dangerous condition of said culvert and approaches thereto, and

WHEREAS, it is alleged that the negligence of the said Commonwealth and State Highway Commission and its employees, agents and servants in failing to properly guard or in failing to give warning of the dangerous condition of said culvert and approaches thereto to the public using same, was the direct and proximate cause of the injuries of the said

Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain and Elizabeth Chamberlain, and now in order that the rights of the parties may be determined by judicial action, and the question of negligence, if any, causing said injuries to said Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain and Elizabeth Chamberlain, may be determined by judicial action.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain, Elizabeth Chamberlain, be, and they are authorized, empowered and permitted, or in the event of the death he, or her, personal representative be, and he is, authorized, empowered and permitted to file a suit or suits against the Commonwealth of Kentucky and the State Highway Commission, or its successor, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission of Kentucky, or its successor, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission of Kentucky, or its successor, or either of them, for such injuries and damages, if any there be, arising from the above stated facts; and in the event any judgment is recovered by said Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain and Elizabeth Chamberlain, or by their personal representative, or either of them, or said suits or judgments are compromised and settled, the judgments or amounts agreed on in compromise, if any, shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general funds.

§ 2. Said action, or actions, may be brought in any county of Kentucky having jurisdiction of the parties and subject matter.

§ 3. Either party to said action may appeal from any judgment which may be entered therein as in other civil suit and the suit may be settled or adjusted with the consent and approval of the Attorney General of Kentucky, in the same way as any other civil suit.

By Mr. Daugherty.

H. Res. 37. Resolution appropriating the sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), with interest thereon from October 26, 1932, for the benefit of Honorable Edward B. Dishman, former Treasurer of the Commonwealth of Kentucky, for moneys spent by him in the performance of his official duties as State Treasurer.

Said resolution is as follows, viz.:

WHEREAS, Honorable Edward B. Dishman was Treasurer of the Commonwealth of Kentucky from January, 1924, to January, 1928, and

WHEREAS, due to insufficient appropriations granted to his office by the General Assembly it was necessary for him to expend for salary to the custodian of securities for the Insurance Department, to various asistant treasurers, and other moneys as premiums upon Fidelity bonds, and a further sum which was necessary to efficiently maintain and operate his office, the total sum being Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), and

WHEREAS, a civil judgment was recovered against him, which required him to pay out of his personal funds the said sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38) on the 26th day of October, 1932, and

WHEREAS, the Court of Appeals in passing upon the civil matter said: "The equity of the case for Dishman addresses itself to the General Assembly, where power is

vested to correct the omission to have an appropriation to cover the overdraft on the budget allowance to pay the lawful compensation for service actually rendered to the State." And

WHEREAS, the said overdraft of the budget occurred through no misuse of funds, and was paid by Honorable Edward B. Dishman personally, Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That there be and there is hereby appropriated out of the General Expenditure Fund of the Commonwealth of Kentucky, the sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), with interest thereon from October 26, 1932, to reimburse and pay to Edward B. Dishman the moneys expended by him in the discharge of the duties of the office of State Treasurer, while he was Treasurer of the Commonwealth, and which he was campelled to pay personally.

§ 2. That the Department of Finance, and the Director of Finance, is hereby authorized and directed to issue its or his warrant upon the State Treasurer for the sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), with interest at the legal rate from October 26, 1932, payable to Honorable Edward B. Dishman, to reimburse him for moneys spent by him in the necessary operation of his office as Treasurer of the Commonwealth of Kentucky from January, 1924, to January, 1928.

By Mr. Curd.

H. B. 248. An Act relating to revenue and taxation, and to tax the gross amount of bank night awards.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions*—(a) "Bank night awards" shall mean and include any gift, prize, or award of cash which is given by lot, drawing or other method by places of amusement and/or entertainment or persons operating the same.

(b) "Places of amusement" when used in this Act shall mean places of amusement and/or entertainment as defined in section 1, chapter 34, of the Acts of the 1938 regular session of the General Assembly.

(c) "Person" shall mean and include individuals, firms, joint stock companies, syndicates and corporations.

(d) "Proprietor" shall mean and include any person or persons who owns, operates, or manages a place of amusement and/or entertainment.

(e) "Department" shall mean the Department of Revenue of the Commonwealth of Kentucky.

§ 2. An excise tax is hereby imposed on bank night awards at the rate of fifteen per cent (15%) of the gross amount of the award.

§ 3. This tax shall be paid by the person or persons receiving the bank night award and shall be collected by the proprietor of the place of amusement and/or entertainment.

§ 4. The proprietor of each place of amusement and/or entertainment subject to the provisions of this Act shall on or before the tenth (10) day of each month take return under oath to the Department of Revenue on such forms as it may prescribe, setting out the number of bank nights held, the gross amount of such bank night awards, the persons receiving the awards and such additional information as the Department may require and shall accompany such returns with a remittance for the amount of the tax collected under the provisions of this Act.

§ 5. The administration of this Act is hereby vested in the Department of Revenue, which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

§ 6. The Department shall have power to institute legal proceedings for the purpose of ascertaining the amount of tax due and of enforcing the collection thereof with penalties thereon and for the purpose of enjoining the operation of the business of the proprietor until said tax is paid.

§ 7. Any person required by this Act to report and pay the tax due to the Department of Revenue on or before the date required and who fails to so report and pay the tax shall be required to pay, as part of the tax due hereunder, a penalty of ten per cent (10%) of the amount of the tax.

The permit issued under section 4281f-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, of any person who shall fail to comply with the provisions of this Act shall be subject to suspension or revocation in the discretion of the Department after hearing of which at least five (5) days notice has been given such person. Any person aggrieved by any assessment, order or ruling of the Department of Revenue under the provisions of this Act may appeal therefrom as provided in sections 5 and 5-a of chapter 4 of the First Extraordinary Session of the 1938 General Assembly.

Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than fifty ($50.00) dollars nor more than five hundred ($500.00) dollars.

Ordered that said bills and resolutions be printed and referred.

The speaker announced that he had referred bills and resolutions heretofore introduced, as follows, viz.:

H. B. 198. To Committee on Kentucky Statutes No. 1.

H. B. 199. To Committee on Fish and Game No. 1.

H. B. 200. To Committee on Judiciary.

H. B. 201. To Committee on Kentucky Statutes No. 1.

H. B. 202. To Committee on Revenue and Taxation No. 1.

H. B. 203. To Committee on Kentucky Statutes No. 1.

H. H. 204. To Committee on Criminal Law.

H. B. 205. To Committee on Fish and Game No. 1.

H. B. 206. To Committee on Suffrage and Elections.

H. B. 207. To Committee on Kentucky Statutes No. 1.

H. B. 208. To Committee on Motor Transportation.

H. B. 213. To Committee on Public Health No. 1.

H. B. 214. To Committee on Education No. 1.

H. B. 215. To Committee on Education No. 1-A.

H. B. 216. To Committee on Railroads.

H. B. 217. To Committee on Railroads.

H. B. 218. To Committee on Revenue and Taxation No. 1.

H. B. 219. To Committee on Revenue and Taxation No. 1.

H. B. 220. To Committee on Miscellaneous Affairs.

H. B. 221. To Committee on Miscellaneous Affairs.

H. B. 222. To Committee on Kentucky Statutes No. 1.

H. B. 223. To Committee on Kentucky Statutes No. 1.

H. B. 224. To Committee on Miscellaneous Affairs.

H. B. 225. To Committee on Kentucky Statutes No. 1.

H. B. 226. To Committee on Motor Transportation.

H. B. 227. To Committee on Judiciary.

H. B. 228. To Committee on Judiciary.

H. B. 229. To Committee on Kentucky Statutes No. 1.

H. B. 230. To Committee on Mines and Mining.

H. B. 231. To Committee on Kentucky Statutes No. 1.

H. B. 232. To Committee on Circuit Courts.

H. B. 233. To Committee on Cities of the Fourth Class.

H. B. 234. To Committee on Oils and Minerals.

H. B. 235. To Committee on Alcoholic and Liquor Control No. 1.

H. B. 236. To Committee on Revenue and Taxation No. 1.

H. B. 237. To Committee on Alcoholic and Liquor Control No. 1.

H. B. 238. To Committee on Agriculture No. 1-A.

H. B. 239. To Committee on Kentucky Statutes No. 1.

H. Res. 33. To Committee on Claims.

H. Res. 34. To Committee on Claims.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled a bill of the following title, viz.:

H. B. 93. An Act to repeal, amend and re-enact Sections 3049, 3118, 3119, 3126, 3131, 3133, 3143, 3144, 3144a and 3166 of the Kentucky Statutes, Carroll's 1936 Edition, all of which sections are a part of the charter of municipalities of the second class relating to the councilmanic form of government; and declaring an emergency to exist.

Thereupon all other busienss was suspended, said bill was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

The Committees to which the same had been previously referred, reported the following bills, viz.:

By Mr. Shaikun of the Committee on Cities of the First Class.

H. B. 81. An Act relating to duly licensed and practicing attorneys at law, in counties containing cities of the first or second class, and providing for compensation for said attorney, etc.

Without an expression of opinion.

By Mr. Ennis of the Committee on Cities of the Third Class.

H. B. 40. An Act to repeal sec. 3480E-1, 3480E-2, 3480E-3, 3480E-4, 3480E-5, 3480E-6, 3480E-7, 3480E-8, 3480E-9, 3480E-10, 3480E-11 and 3480E-12 establishing a civil service commission in cities of third class

By Mr. Walters of the Committee on Roads and Highways No. 1.

H. B. 135. An Act relating to county roads and providing how such roads shall be named, etc.

With the expression of opinion that said bills ought to pass with the exception of the one specifically set out above.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

By Mr. May of the Committee on Criminal Law.

H. B. 61. An Act to amend section 1309 of Carroll's Kentucky Statutes, 1936 edition.

H. B. 146. An Act to amend Sec. 979b-5 of Carroll's Kentucky Statutes, 1936 Edition.

With the expression of opinion that said bills ought not to pass.

No motion having been made to advance said bills to a reading the report of the Committee to the contrary notwithstanding and no further action having been taken by the House on said bills, it was ordered that said bills be not read at length the first time and so said bills were rejected.

The House took up for consideration from the Calendar, bills and a resolution of the following titles, viz.:

H. B. 109. An Act amending and re-enacting Sec. 3235-dd-33 of Carroll's Kentucky Statutes, being an Act relating to the appointment of city managers in cities of the second class.

H. B. 87. An Act relating to the embezzlement, conversion, misappropriation and/or misapplication of the sinking fund in cities of the second class, etc.

H. B. 154. An Act to provide for the payment of costs in advance in quarterly courts in counties containing a city of the second class.

H. B. 41. An Act to authorize and enable cities of all classes to purchase, establish, acquire, maintain and operate municipal recreational projects, etc.

H. B. 120. An Act to provide moral instruction for children in connection with the public schools.

H. B. 139. An Act to promote the public welfare by providing aid to dependent children.

H. Res. 14. Resolution to provide for ten copies each of Carroll's 1936 Kentucky Statutes, and Baldwin's 1939

Kentucky Statute Service for the use of the General Assembly and providing for the payment for same.

Ordered that said bills and resolution be read the second time.

The Constitutional provision as to the second reading of said bills and resolution at length being dispensed with, said bills and resolution were read the second time by their titles only.

Ordered that said bills and resolution be placed in the Orders of the Day.

Mr. Joe E. Robinson moved that the Rules of this House be suspended for the purpuse of offering a resolution.

Said motion was agreed to.

Thereupon Mr. Robinson offered the following resolution, viz.:

Resolved, that whereas, February 1, 1940 has been set apart by the Joint Congressional Committee to commemorate the one hundred and fiftieth anniversary of the commencement of the Supreme Court of the United States, and

Whereas, The Honorable Thomas Todd was one of the first Associate Justices of the Supreme Court of the United States, was a citizen of Kentucky and is buried at the Capital of this State, and

Whereas, the Franklin County Bar Association is conducting a memorial of the foregoing on Thursday, February 1, at two o'clock P. M. and has invited the General Assembly of this State, the Court of Appeals, the State officials and other civic bodies to participate,

Be It Resolved, That when the General Assembly recess over the hour of said exercises and extend the use of the Legislative chamber holding same.

Said resolution was agreed to.

Mr. Joe E. Robinson moved that the Rules of this House be suspended and that the House take up for immediate consideration from the Orders of the Day, a bill entitled:

H. B. 30. An Act to repeal, amend and re-enact Section 4127 of Carroll's Kentucky Statutes, being Section 3 of Chapter 130 of the Acts of the Regular Session of the General Assembly of 1928, providing Compensation for the members and clerk of the county board of supervisors.

Said motion was agreed to.

Thereupon the House took up for immediate consideration from its place in the Orders of the Day, said bill.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section Four Thousand, One Hundred Twenty-seven (4127), being Section Three (3) of Chapter One Hundred Thirty (130) of the Acts of the Regular Session of the Regular Session of the General Assembly of 1928, shall be repealed, amended, and re-enacted so that said section shall read as follows:

"The members of the board of supervisors and the clerk shall each be allowed one dollar and fifty cents ($1.50) per day for each day of actual attendance of the meetings of the board to be paid out of the State Treasury. In addition thereto, the members of said board and the clerk shall each be allowed as compensation a sum to be determined by the fiscal

court, of not less than one dollar and fifty cents ($1.50) nor more than ten dollars ($10.00) per day for each day of actual attendance of the meetings of the board, to be paid out of the county levy.

Mr. Hunicutt offered the following amendment to said bill, viz.:

Amend H. B. 30 on page 1, paragraph 2, line 7 by striking out after the word "allowed" the remainder of the language in line 7 and all of the words in lines 8, 9, 10, 11 and 12, and the words in lines 13 and 14 on page 2 of the printed bill, and insert in lieu thereof the following words and language:

"three dollars ($3.00) per day for each day of actual attendance of the meetings of the board to be paid, one half out of the county levy, and the other out of the state treasury. Provided, however, that in counties containing cities of the first or second class, the fiscal courts of such counties may, in addition to the sum of one dollar and fifty cents ($1.50) paid out of the state treasury to the members of the board of supervisors and the clerk, allow as compensation a sum to be determined by the fiscal courts of such counties of not more than five dollars ($5.00) per day of actual attendance of the meetings of the board, to be paid out of the county levy."

Said amendment was agreed to.

Mr. Hunnicutt moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. P. Fitzpatrick	Davis Moore
J. Everett Bach	Cecil Florence	Joe T. Morgan
H. T. Baker	Wayne Freeman	C. Homer Neikirk
Robert E. Barry	Eugene Gough	Carl D. Perkins
Wm. T. Beard	Van Y. Greene	B. W. Porter
Alvis S. Bennett	Ralph C. Hamilton	H. O. Porter
Rell Bevins	C. L. Hammons	Kleber F. Price
Sterling B. Blake	T. H. Hickey	Hobart Rayburn
Douglas T. Bolling	Clyde S. Howard	Thomas Rigdon
J. F. Bosworth	Chester Huffines	Joe E. Robinson
W. S. Brim	John M. Hunnicutt	Lyman Roll
C. J. Bronston	W. H. Hunt	Jack Savage
Gus A. Brooks	R. L. Jackson	Carl Scheben
Randolph A. Brown	J. B. Jarboe, Jr.	Leon J. Shaikun
Haynes Carman	Chas. X. Jones	Ray O. Shehan
Charles M. Carter	John S. Juett	Faust Y. Simpson
James W. Chapman	William K. King	Otto Smither
S. B. Chrisman	W. A. Lamkin, Jr.	E. T. Sparks
John Coulter	Robert E. Lee	G. C. Springate
John H. Cox	Harvey D. Leonard	J. Claude Stacy
Pink G. Curd	Edward Leslie	Ray J. Stengel
W. Q. Daniel	W. Paul Lyon	Henry Stewart
F. E. Daugherty	C. C. May	W. St. Clair Stuart
Forest C. Easley	T. B. McConnell	T. M. Swope
D. E. Edwards	E. Hayes McMakin	Erna E. Tyra
Harry W. Ennis	Norris McPherson	J. Wood Vance
R. R. Ernst	Stanley C. Moebus	Walter R. Vansant
Carlos Fallis	John B. Mollette	S. J. Wagner

Porter Wallace	Henry Ward	Otis White
Harry F. Walters	H. L. Waterfield	James H. Woods

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Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The hour of twelve o'clock having arrived, that being the hour for the Special Order of the Day, the House took up for consideration, said Special Order, to-wit, a bill entitled:

H. B. 167. An Act relating to revenue and taxation and prescribing certain duties, powers and penalties relating to the listing, assessment and taxation of certain intangible property.

With an amendment thereto by way of Substitute therefor as offered by Mr. Chapman.

(For bill and Substitute as offered by Mr. Chapman, see House Journal of January 24)

Mr. Chapman offered the following amendment to said Substitute, viz.:

Amend the Substitute for H. B. 167 in section 1, page 2, lines 32, 33 and 34 by striking out said lines in their entirety and by inserting in lieu thereof the following:

"All such delinquent tax bills shall constitute liens on property as now or hereafter may be provided by law"

Said amendment was agreed to.

Mr. Chapman moved the adoption of said Substitute as amended.

Without objection the aforesaid motion was withdrawn by Mr. Chapman.

Thereupon Mr. Neikirk offered the following amendment to said Substitute, viz.:

Amend Substitute for H. B. 167 on page 1, line 4 by striking out the words "three years" and inserting in lieu thereof the words "one year"

Said amendment was disagreed to.

The yeas and nays being required thereon by Messrs. Bach and Dickson, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	T. H. Hickey	Ray O. Shehan
Alvis S. Bennett	W. H. Hunt	E. T. Sparks
Douglas T. Bolling	Stanley C. Moebus	Henry Stewart
Randolph A. Brown	John B. Mollette	Porter Wallace
Haynes Carman	C. Homer Neikirk	H. L. Waterfield
Charles M. Carter	Hobart Rayburn	
John H. Cox	Jack Savage	—19

Those who voted in the negative were—

J. Everett Bach	C. J. Bronston	F. E. Daugherty
Robert E. Barry	Gus A. Brooks	Stanley S. Dickson
Wm. T. Beard	James W. Chapman	Forest C. Easley
Rell Bevins	S. B. Chrisman	D. E. Edwards
Sterling B. Blake	John Coulter	Harry W. Ennis
J. F. Bosworth	Pink G. Curd	R. R. Ernst
W. S. Brim	W. Q. Daniel	Carlos Fallis

T. P. Fitzpatrick	Edward Leslie	Bruce Sloan
Cecil Florence	C. C. May	Otto Smither
Wayne Freeman	T. B. McConnell	G. C. Springate
Eugene Gough	E. Hayes McMakin	J. Claude Stacy
Van Y. Greene	Norris McPherson	Ray J. Stengel
Ralph C. Hamilton	Davis Moore	W. St. Clair Stuart
Clyde S. Howard	Joe T. Morgan	T. M. Swope
Chester Huffines	Carl D. Perkins	Erna E. Tyra
John M. Hunnicutt	B. W. Porter	J. Wood Vance
R. L. Jackson	H. O. Porter	Walter R. Vansant
J. B. Jarboe, Jr.	Kleber F. Price	S. J. Wagner
Chas. X. Jones	Thomas Rigdon	Harry F. Walters
John S. Juett	Joe E. Robinson	Henry Ward
William K. King	Lyman Roll	Otis White
W. A. Lamkin, Jr.	Carl Scheben	James H. Woods
Robert E. Lee	Leon J. Shaikun	
Harvey D. Leonard	Faust Y. Simpson	—70

Mr. Neikirk offered the following amendment to said substitute, viz.:

Amend the Substitute for H. B. 167 by striking out on page 3, section 3, line 1 the words "or any properly authorized agent thereof" and by adding in lieu thereof the following: "or the Attorney General, or properly authorized agents by the Attorney General"

Said amendment was disagreed to.

Mr. Neikirk offered the following amendment to said Substitute, viz.:

Amend the Substitute for H. B. 167 by striking therefrom all of Section 4.

Said amendment was disagreed to.

Said Substitute was then adopted, as amended

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

J. Everett Bach	T. P. Fitzpatrick	B. W. Porter
Robert E. Barry	Cecil Florence	H. O. Porter
Wm. T. Beard	Wayne Freeman	Kleber F. Price
Alvis S. Bennett	Van Y. Greene	Hobart Rayburn
Rell Bevins	Ralph C. Hamilton	Thomas Rigdon
Sterling B. Blake	C. L. Hammons	Joe E. Robinson
Douglas T. Bolling	Chester Huffines	Lyman Roll
J. F. Bosworth	John M. Hunnicutt	Carl Scheben
W. S. Brim	R. L. Jackson	Leon J. Shaikun
C. J. Bronston	J. B. Jarboe, Jr.	Faust Y. Simpson
Gus A. Brooks	Chas. X. Jones	Bruce Sloan
Randolph A. Brown	John S. Juett	Otto Smither
James W. Chapman	William K. King	G. C. Springate
John Coulter	W. A. Lamkin, Jr.	J. Claude Stacy
John H. Cox	Robert E. Lee	Ray J. Stengel
Pink G. Curd	Harvey D. Leonard	W. St. Clair Stuart
W. Q. Daniel	Edward Leslie	T. M. Swope
F. E. Daugherty	C. C. May	Erna E. Tyra
Stanley S. Dickson	T. B. McConnell	Walter R. Vansant
Forest C. Easley	E. Hayes McMakin	S. J. Wagner
D. E. Edwards	Norris McPherson	Harry F. Walters
Harry W. Ennis	Davis Moore	Henry Ward
R. R. Ernst	Joe T. Morgan	Otis White
Carlos Fallis	Carl D. Perkins	James H. Woods

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Those who voted in the negative were—

C. W. Anderson, Jr.	Stanley C. Moebus	E. T. Sparks
Haynes Carman	John B. Mollette	Henry Stewart
S. B. Chrisman	C. Homer Neikirk	J. Wood Vance
T. H. Hickey	Jack Savage	H. L. Waterfield
Clyde S. Howard	Ray O. Shehan	—14

Resolved that the title thereof be as amended.

Mr. Chapman moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last-named motion was agreed to.

Mr. Joe E. Robinson moved that the House do now adjourn to meet again on Tuesday, January 30, at one-thirty o'clock P. M.

Said motion was agreed to.

And the the House adjourned.